

**Report
of the
Working Group
on
Review of the M.V. Act 1939**

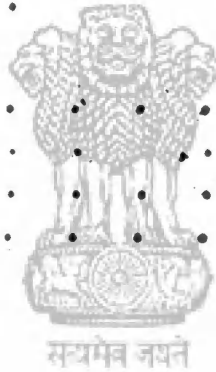


सत्यमेव जयते

**Ministry of Transport
(Deptt. of Surface Transport)
January, 1986**

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PREFACE

The Motor Vehicles Act, 1939, will soon be completing its run of half a century. This Act has been the main instrument to regulate road transportation in the country. Though there had been amendments effected from time to time to meet particular needs, the original underlying concept of regulating road transport, only as an adjunct or a feeder service to the Railways, continued as a determinant of need or otherwise of particular provisions. Many of the restrictive and constricting procedural provisions obtaining in the M.V. Act 1939, can be attributed to this factor. It cannot be denied that the Railways had been the principal mode of transportation of goods and passengers throughout the sub-continent and acted not only as an integrating force, but also contributed to the development of other sectors of economy. Over the years the motorized road transportation, which was assigned only subsidiary role and the initial stages, has consequently grown in dimensions and has itself become one of the vital infrastructures in the process of development of National economy. The regulations relating to road transport, therefore, needed a fresh look.

2. During the past fifty years, there have been certain significant developments in both the automotive sector as a whole as also the road transport sector in India. Soon after the Independence, there came the Road Transport Corporations Act, 1950, through which public sector transport corporations were enabled to be set up by the State Governments to provide co-ordinated, efficient and adequate passenger transport services. This was in pursuance of the appreciation of the fact that the State had a major responsibility to provide adequate transportation services and bring the rural and remote areas in the main stream of national effort for concerted development. As a consequence almost all State Governments have set up State Transport Undertakings entrusted with the responsibilities of providing passenger transport services. Some of the State Governments particularly in the hilly regions have also set up transport undertakings for ensuring transportation of goods, particularly of the essential commodities. Their objective was mainly to augment and provide services to the public. The commercial consideration had been secondary. Requisite provisions in the M.V. Act 1939, had been accordingly inserted in 1956. The State Transport undertakings have been operating and the contribution being made by them to the total process of transportation cannot be little.

3. The other major schemes put through earlier were in respect of National and Zonal permits schemes for public carriers for facilitating inter-State movement of goods, and All India Tourist Permit scheme in the interest of tourism promotion. In the light of their implementation and actual operations, there had been a general demand for simplifying the schemes and in fact the permit system. The complexities of procedural requirements and the time-lag involved are shown as responsible for obstructing the natural growth and efficient functions of the road transport sector. The need for liberalisation of policies and rationalisation of procedure has been voiced.

4. The Road Transport of the country has registered an impressive growth during the last few years. The road network in terms of kilometres has increased from 4 lakh kms in 1951 to 15.30 lakh kms. in 1981 of which National Highways account for 32,000 kms. The vehicle population in the country, which was around 3 lakhs in 1951 has increased to 63 lakhs in 1985 and is expected to go upto 100 lakhs by 1991. The indigenous production of different types of motorised vehicles has increased from an insignificant figure of 6000 in 1951 to 12 lakhs per year currently. There had also been amazing changes in the vehicle mix. The types of motorised vehicles, populating our roads over a wide variety like the Mopeds, Scooters, Motor-cycles, Motorised Cycle-Rickshaws Autorickshaws, Cars, Jeeps, LCVs, Heavy Commercial Vehicles, Articulated vehicles, Truck Trailer combinations, not to speak of wide range in particular types for different applications. There has, in fact been a sea-change in regard to the Road Transport scenario as compared to the position prevalent at the time the Motor Vehicles Act 1939, was enacted. The enormous increase in the vehicle population has brought in special problems relating to atmospheric pollution and safety. The transport management and regulations have to take care of changing situations and employ techniques suitable to meet the needs.

5. The various committees that have gone into different aspects of road transport have also touched upon this matter and recommended updating, simplification and rationalization of the legislative provisions regulating road transport. Several Members of Parliament had strongly urged for comprehensive review of the Motor Vehicles Act 1939, to make it relevant to the changed system obtaining now.

6. A small working group was constituted by the Government of India on 31st January 1984 with Shri B.R. Chavan Commissioner (SF) as a convener and Transport Commissioners/Joint Transport Commissioners of Punjab Tamil Nadu Uttar Pradesh and Maharashtra as its members and was assigned the task of reviewing all the provisions of the Motor Vehicles Act 1939 and submit draft proposals for a new comprehensive Legislation. The group was particularly asked—

- (a) to examine the scheme of the Act in the light of the rapid development of road transport in the country manufacture of new types of vehicles new concepts of management of transport and traffic control.

- (b) to update the definitions of various terms such as invalid carriage, light motor vehicles, articulated vehicles etc.
- (c) to examine whether any of the existing provisions of M.V. Act 1939 are unduly restrictive hampering the smooth transport operations and on identifications to suggest appropriate changes including those for licensing for drivers/conductors and permits system for vehicles.
- (d) rationalization and simplification of any of the procedure including aspects if any of the provisions could be better prescribed under rules rather than forming the part of the main Legislation.
- (e) simplification of procedures under Chapter IV-A of the Motor Vehicles Act 1939 in the light of experience of operating passenger transport in the public sector.
- (f) to examine provisions regarding powers and functions of inter-state transport commission and suggestion for its effective functioning.

7. Accordingly each provision of the M.V. Act 1939 has been subjected to a detailed scrutiny. In the process the Working Group had examined a large number of proposals for amendments to the M.V. Act 1939 as submitted by various State Governments as also the proposals submitted by numerous organizations like All India Motor Transport Congress Associations and Federations of Transport Operators, Tourist vehicles operators, Indian Banks Association, Federation of Hire Purchase organizations and the individuals. The suggestions made by Ministry of Industry, Ministry of Home Affairs, Department of Environment, Department of Tourism, D.G.T.D. have also been taken into account. Detailed discussions were held with the representatives of General Insurance Corporation with regard to the provisions relating to a system of insurance coverage of vehicles and accident compensation. The Group also discussed a number of points with the expert institutions like Central Institute of Road Transport, Automobile Research Association of India. Suggestions/proposals forwarded by the Association of State Road Transport Undertakings, vehicles manufacturers, tyre manufacturers as also suggestions sent by individuals were looked into. The working group also had the benefit of studying the recommendations made in the reports of National Transport Policy Committee, National Police Commission, Road Safety Committee, Low Powered Two wheelers committee as also the recommendations in the Reports of Law Commission, related to insurance and accident compensation and other aspects. The views expressed and the directions given by the Transport Development Council, in its various meetings, have been kept in view.

8. The working group thankfully notes the contributions made by the officers of the State Governments as also others including representatives of different organizations mentioned above. During the period that the working group had been engaged in the task, there had been changes in the incumbency of Transport Commissioners/Joint Transport Commissioners of some States whose representations are on the working group. Shri A.K. Dubey, Transport Commissioner, Punjab, Shri G.B. Lal and Shri B.N. Gupta, Addl. Transport Commissioners, U.P. had been associated with the working group during their tenure and had contributed to the discussions. Shri P.V. Visiwanathan, Joint Transport Commissioner, Tamil Nadu, who was earlier a member of the Group till his retirement on 31-1-85, was later on also actively associated with the work. The Working Group also places on record its thanks to Shri J.R. Kapoor, Section Officer in the Deptt. of Surface Transport for the able assistance rendered by him.

9. The Working Group submits, in the following pages, the detailed proposal for a comprehensive revision of the M.V. Act, 1939. Chapter I deals with the policy approach towards important aspects of the road transport and resultant requirements of the new thrust, additions, alterations, modifications and omissions in the existing provisions of the Motor Vehicles Act, 1939 Chapter II gives the summary of details of proposed revisions. Based on these proposals, a comprehensive Draft Revised Motor Vehicles Act is submitted in the Annexure.

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APPROACH ADOPTED FOR REVISION OF PROVISIONS OF MOTOR VEHICLES ACT, 1939

The essential components of any Motor Vehicle legislation, besides the definitions of the terms used, have to be the provisions in respect of licensing of drivers of motor vehicles, (b) licensing of conductors in stage carriages, (c) registration of motor vehicles, (d) desired system of regulating the operations of transport vehicles through permits or authorizations, (e) provisions relating to the dimensions and equipments of the vehicles permitted on public roads, (f) traffic regulations, (g) insurance and compensation in the event of accidents involving motor vehicles, (h) violations of regulations and penalties therefor. The existing Act covers all these aspects and structurally there seem to be no need for change in the order of provisions in different chapters.

2. A point has been made that the present Motor Vehicles Act could be split into two, one dealing with driver licences, registration of vehicles, permit system and vehicle requirements; and the second, consisting of a traffic code, covering traffic regulations, traffic violations and punishment. It is felt that such a bifurcation is not called for, since the provisions regarding traffic regulations or traffic violations have close connections with substantive provisions and do require back-references particularly those relating to driver licences, registration, and other aspects. A compact single Act is a better proposition.

3. What perhaps is intended in the above referred suggestion is that there are numerous rules made by different State Govts., to be observed by the drivers and that there should be at one place, a set of rules, which can be uniformly applicable throughout the country. To serve this need, it is proposed to have a compendium of "Rules of the Road" to be treated as prescribed by the Central Govt. under its rule-making powers. The Rules of the Road as formulated have been proposed for prescribing by the Central Govt.

4. While reviewing the provisions of the Motor Vehicles Act, 1939, the following factors have been kept in view :—

- (a) That the fact of growth and increasing dimensions of road transport sector, with operational economies of its own, necessitates that, alongside other transportation networks, it should be looked as an independent entity and the legislative apparatus for the same should be such as not to throttle its natural growth;
- (b) That the technological advancements in the automotive sector necessitates appropriate updating not only with regard to Construction-Equipment-Maintenance of the motor-vehicle but also suitable provisions with regard to safety on the road, control on pollution of environment and fuel efficiency;

- (c) That the new improved techniques of transport management should get reflected in provisions relating to driver-licensing, traffic control in cities and on highways;
- (d) That with the passage of time and opening up of new areas through road network, linkages provided by road-transport transcend the State boundaries in greater measure. The trend will continue in future. The tenor of existing regulatory provisions has been to look at transport operations as within the confines of the 'State' and, when necessary, permitting operations beyond the State boundaries, as if with reluctance. Instead of only the 'State' the point of reference has to be the "nation". Rationalization and simplifications of procedure have to reflect this inevitable and natural development;
- (e) Road Transport is a concurrent subject. While the Central Government through the Central legislation provides for a broad policy framework, the executive responsibility of implementing the provisions of the Motor Vehicles Act, rests with the State Govts./UT Adms. The State Govts./UT Adms. are also required to ensure provisions of adequate, co-ordinated and efficient passenger transport services and the regulating of passenger and goods transport operations to achieve the objective of maximum public convenience. Realization of this objective of maximum public convenience envisages making road transport function as an integral part of the overall transportation services of the region and of the country. It also underlines the need to ensure that there is no unhealthy competition either amongst the operators of the same mode, namely the road transport services or as between the road transport and other modes of transport like railways. Otherwise, besides causing inconvenience to the public, it would lead to wastage of nation's capital resources. The periodical exercises of assessment of public needs for road transport services by the Transport Authorities of the States, particularly for passenger transport, have to take into account these factors. Suitable provisions for the same should find place in the framework of the Motor Vehicles Act.
- (f) That both the public sector and the private sector operation have been playing significant roles in the field of road transportation. In the years to come both the State transport undertakings and the private operators will be required to apply their resources in increasing measure to meet the fast-growing

transportation needs. In the field of passenger transport, there have been in the recent past complaints from one sector against another such as of clandestine operations of the private operators in the areas of the STUs, and a favoured treatment given to the STUs acting as a serious handicaps to the private initiative. Despite the historical necessity of creation of STUs, and their continuing relevance in the matter of providing co-ordinated services, it is on their performance alone that the public will be viewing their standing, in the future. What is important with reference to legal provisions, is to provide for the growth and development of both the sectors, by a rational system of respective interests.

- (g) that the number of provisions in the existing Act relate to details, which normally should form the part of Rules, instead of cluttering the substantive provisions. Necessary re-arrangement is envisaged in the process.

5. Taking into consideration the above factors, a number of changes have been proposed and a summary of details of additions, alterations, modifications and omissions made in the existing provisions of the Motor Vehicles Act, 1939, has been given in the chapter that follows. Broadly the salient features of the revisions made are as under :—

- (i) the portion of definition has been updated with further inclusion of fresh terms now in vogue;
- (ii) the provisions relating to issuance of driving licences and certificates of physical fitness for vehicles have been made more stringent—from the angle of road safety. Any laxity in the tests in these regards pose potential danger of mishaps on the road;
- (iii) the process of registration of motor vehicles has been streamlined. The vehicle to be registered must also satisfy fitness from the point of road safety devices and pollution control;
- (iv) radical but necessary changes have been effected in the permit system by reducing the multiplicity of permits and ensuring their easy availability. The goods carriers' permits which will be only either intra-State or inter-State permits are proposed for issue across the counter with further facility that a permit issued in any corner of the country shall be valid throughout the country without requirement of counter-signatures. The transporter will be authorized to operate wherever he wants. The permits for contract carriages are to be allowed straightway for State-wise operations. All India Tourist Permit Scheme is revised to make it more functional to

achieve the object of promotion of tourism and of meeting tourist needs, without infringing the sphere of Stage Carriage services. Renewal of permits has been made automatic.

- (v) the provisions governing stage carriage services have been revised to provide that the shortfall in the services being provided by the STUs can be met effectively by the private sector, that their participation is not subjected to uncertainties, that the schemes of nationalization of routes/areas are not published by STUs without prior approval of the concerned State Govts. who should decide such propositions taking into account all relevant factors, major consideration being the maximum public convenience.

As regards the stage carriage services on non-nationalized routes, the powers have been vested in the State Govts., if considered by them as expedient in public interest, to remove the restriction on the number of Stage Carriage permits to be granted by STA/RTA.

- (vi) the provisions of traffic control have been revised to bring in positive content in the shape of steps to be taken by State authorities for creating conditions for safe travel viz., setting up truck-parking complexes along highways, auto-nagars on the outskirts of cities, Highway Patrolling schemes through traffic-aid-posts.
- (vii) To ensure quick disposal of cases of traffic violations, creation of "Special Courts" has been suggested. Besides rationalization of other provisions to provide deterrent punishment for violaters of regulations, the hijacking of vehicles and drag-racing, have been put as offence punishable under the Motor Vehicles Act.

6. The Working Group, during the course of review, had received certain suggestions on alternatives to the existing procedure in respect of various aspects of the Motor Vehicles Act. These were examined. A rationale behind certain conclusions arrived at by the Working Group is in brief as follows.

- (a) A point has been made that initial registration of the vehicle should be allowed to be done at the dealer point on the ground that a new vehicle satisfies condition of fitness test as certified by the manufacturer himself and the dealer has only to fill in the details in the prescribed form, and that he can deposit the same with transport authorities along with registration fees. In this context, it needs to be appreciated that the system of registration provides the first means of information of the vehicle, details

of which are to be recorded in the Registration Certificate, and to which future references relate. Whether it is by the owner or the dealer of the vehicle, the details of the vehicle shall have to be recorded in the registers of the Authorities who will be responsible for answering any query or verification of detailed history of the vehicle, and in view of this it would not be desirable to leave this work with a private agency.

- (b) Another point raised is whether there is any need at all for the permit system and whether the process of registration itself would not serve the interests of regulatory aspects. This view is generally propounded on the understanding that present permit system is not serving the interests of the operator and the public, but is acting as a source of patronage or harassment. Basically, registration is a document to establish the ownership and the permit is a permission to operate a vehicle on commercial basis. The 'permit' has relevance to the extent there are restrictions on the number of vehicles to be plying on the road for hire or reward. In the case of goods vehicles, complete liberalization has been proposed with regard to number of vehicles for commercial operation. It would be logical that the Registration Certificate and the permit could be a combined document to be given at the time of initial registration. In view of the requirements of endorsements for inter-State operations, such a combined document has of necessity to have two parts—one of registration and the other of the permit. This combined documentation will reduce the avoidable paper-work in transport offices and inconvenience to the operators and will help better realization of tax revenue. In the case of passenger transport vehicles, though the State Govts. have the power to issue any number of stage and contract carriage permits as per their assessment, the issuance of unlimited number of permits in these categories would not be in public interest, in view of the very nature of their operations and also to eliminate scope for cut-throat competition resulting in under-utilisation of capacities and wastage of scarce petroleum products. The existing system of permits to be issued separately from registration documents need therefore to continue in this case.

- (c) By another suggestion, it was represented that the amount of compensation payable in the case of motor vehicle accidents, may be enhanced to the higher levels similar to the one obtaining in the case of rail and air accidents. In this connection, it may be stated that there are three types of compensation claims permissible under the Motor Vehicles Act, namely,

- compensation payable on proof of fault basis;

- compensation payable on no fault principle; and
- solatium in the 'hit and run' motor accidents.

The compensation under 'no fault' basis and solatium are by way of providing instant financial relief to the victims/legal heirs. A fixed amount of Rs. 15,000 in the case of death and Rs. 7,500 in the case of permanent disablement has been fixed as payable on 'no fault' principle to be expeditiously awarded by the Motor Accidents Claim Tribunal on receipt of the application, and on establishment of the fact of occurrence of accident, involving the motor vehicle. This compensation is an interim compensation with full freedom and eligibility to proceed with claim application and claim higher level of amounts on the normal basis of proof of fault. There is no limit fixed upto which the Tribunal can make the final award. There have been a number of cases where the tribunals, on merits of the cases have awarded compensation involving amounts more than Rs. 5 lakhs each. Placing the limit will rob the Tribunal of its power to consider cases on merits. As for solatium, in 'hit and run' motor accident cases, where neither the vehicle nor the owner is traceable, it represents, by the very term used, providing of, on compassionate ground some financial help to meet temporary needs of the persons affected by the accident.

- (d) One of the points strongly represented by one of the organisations of private Bus-operators has been that the Motor Vehicles Act should provide for statutory co-existence and joint operation of both private and public sector in passenger road transport all over the country in equal proportion i.e. 50:50 in all areas and types of services and rights of operations. In this context, the facts are that as of today the goods transportation is almost entirely catered to by the private sector, and in respect of passenger transport also, their operation in terms of bus fleet is more than 55%. As for State-wise position, the extent of nationalization of passenger transport has been of varying degrees, leaving sizeable percentage of operations to the private sector, except in a few States where there is complete nationalization. It must be appreciated that when the transport services provided by the private operators were found inadequate to serve the needs of the developing society, the State Govts. have established the State Transport Undertakings to provide coordinated and adequate passenger services. These undertakings have done a pioneering job of reaching the rural and other remote areas and providing a massive network of passenger services, despite some

of their operations being on uneconomic routes but considered useful to the society. For this very reason, the continuance of STUs as a bullwork for the passenger transportation is considered essential. However, in order to ensure that STUs do not enjoy unfettered and exclusive monopoly over all areas and that the private participation is encouraged, the following propositions should adequately meet the needs :—

- (i) Every Draft Scheme of nationalization of any area/route which hitherto fore could be got published by the STU management on the basis of its own appreciation of traffic needs will now be required to have a prior approval of the concerned State Govt. which is expected to judge the need of nationalization on an objective basis and in the larger public interest.
- (ii) In the event, such a draft scheme is not finally approved and, implemented within a period of one year from the date of publication of the Draft Scheme, it would stand lapsed, and the private operators would be free to get permits and operate in the concerned areas.
- (iii) Further on lapsing of the notified scheme, the STUs are proposed to be barred from republishing the same for a period of three years so that the private operators, who would be investing money in purchase of vehicles, are assured of reasonable time for running their services.
- (iv) The provisions also permit taking by the STU, under its umbrella, private operators to serve as associates, for operating services under overall supervision of the STUs.
- (v) There also exists a provision under which the State Govt. are empowered to denationalize any of already nationalized route if this is considered by it as in the public interest.
- (vi) Experience of some State Govts. indicates that they were precluded from providing additionality of services through increase in the number of stage carriage permits, on non-nationalized routes. This was mostly as a result of efforts of established private operators to bar the entry of newcomers. Provision has been made empowering the State Govts. that the limits on the number of such permits is fixed by STA/RTA could be removed by them if considered expedient in public interest.

The proposition of statutorily fixing the percentage of services to be operated by private sector would mean placing arbitrary restrictions on the growth of either sector,

whereas the need is to provide scope for both to grow freely and naturally, within the confines of social justice.

- (e) One of the subject matters repeatedly discussed in the meetings of Transport Development Council and which figured as a point in many representations has been that of serious constraints in effecting timely revisions in the fare structures for Stage Carriages. The present procedure envisages fixation of fares by the State Govts. only after completion of numerous process as like draft publication, invitation of objections, personal hearings to the objectors, consideration of any modifications and final notification. This makes it impossible to effect timely revision in the fares. The Working Group, after considering possible alternatives, has proposed that the existing procedure may be replaced by a new one where the State Govt. may fix the fares with the approval of State Legislatures. The earlier procedure of inviting objections from the public was a means of ascertaining of public opinion in regard to the proposed revision in the fares. The same objective could be achieved by taking up the matter in the Legislatures where the expression of public response is obtained through people's representatives. It has, further, been proposed that where the fare revision is considered urgent, the State Govt. may notify the revised fare structure provisionally and get the ex-post facto approval of the State Legislature. This system has an advantage of expediting decisions in regard to the fare revisions. Another significant advantage in this method is that the fares could be reviewed at periodic intervals taking into account the variations in the cost of operations.
- (f) The Working Group also examined as to whether Solatium Fund Scheme through which solatium is paid to the victims of 'hit & run' motor accidents can appropriately be administered by the General Insurance Corporation. The Solatium compensation is presently paid from the Solatium Fund comprising of contributions from GIC, Central Govt. and State Govts. in the ratio of 70 : 15 : 15. Taking into account that the solatium is another category of compensation in accident cases, and that the GIC and the four nationalized insurance companies even today are the major contributors to the Solatium Fund and the number of claims also happen to be not many, it is held that Solatium Fund Scheme could be appropriately administered by the GIC itself by earmarking certain funds.
- (g) In the goods transport sector, greater usage of multi-axle vehicles and tractor-trailer combinations is now a natural development in view of their capability to carry higher

load with less damage to road surface and their being fuel efficient, and causing less atmospheric pollution, because their prime-movers have turbocharged engines. In order to help the process, the maximum load to be carried by the vehicle is prescribed with reference to the axle thereby permitting multi-axle vehicles to carry correspondingly higher loads. It has further been provided that with a given primemover, any number of trailers could be attached subject to the limitations of the individual axle loads. The restriction, earlier prevalent, of tie-up of primemover with a specified trailer has been deleted. Responsibility has also been cast on the State Govts. to establish truck-terminals or auto-nagars on the outskirts of the cities. This should help in the operation of multi-axled vehicles on trunk routes between truck

terminals, as the latter would provide facilities for transshipment of goods into the cities through smaller vehicles.

- (h) It has been considered necessary to work towards the creation of National Register covering details of registration of vehicles as also those of driving licences issued by different authorities. In fact in the case of driving licences, a system of having a national series for driver licence numbers could then be envisaged at suitable time. Taking into account the size of the country, the growing number of vehicles and drivers, a computerised data in this regard would be of crucial value whenever required for tracing vehicles and drivers involved in traffic violations, etc.



SUMMARY OF DETAILED PROPOSALS FOR ADDITIONS, ALTERATIONS, MODIFICATIONS, OMISSIONS, ETC., IN THE EXISTING PROVISIONS OF THE MOTOR VEHICLES ACT, 1939

Definitions

With regard to the definition of various terms appearing in the Act, it is seen that :

- (a) there are several types of vehicles on the roads whose description do not find a place in the present Act, such as Ambulance, Autorickshaw, Dumper, Motorcycle without gear, Prime Mover, School bus, mini bus, Spare bus etc. The definitions of such vehicles have been included;
- (b) further, taking into account the shape of things to come in future, vehicles such as house trailers, Camper's Van, Trackless Trolley, Tow truck, etc. have also been defined.
- (c) some of the existing definitions have been amplified for the purpose of clarity as also the correct coverage.

The following terms are newly introduced and defined :

1. Ambulance.
2. Animal Ambulance
3. Auto Rickshaw
4. Attendant
5. Authorized Emergency Vehicle
6. Camping Trailer
7. Camper's Van
8. Dumper
9. House Trailer
10. Lease
11. Manufacturer
12. Maxi Cab
13. Motorcycle without gear and with gear
14. Private service vehicle
15. Primemover
16. Physically handicapped person
17. Principal place of business
18. School bus/college bus
19. Spare bus or Reserve bus
20. Mini Bus
21. Trackless Trolley
22. Towtruck
23. Semi-Trailer
24. Tandem Axle.

The 'object and reasons' for inclusion of these terms have been explained in detail against each of the terms in "the Draft Proposals" in Annexure.

Driving Licence and authorisation for conductors

In the existing system anybody can get a Learner's Licence for the asking and after learning to drive from not necessarily the expert instructor, can appear for the test, which is said to be cursory and inadequate and get a licence. The medical fitness to drive is insisted only in the case of driving a transport vehicle. The present system of issuance of driving licence has been a subject matter of criticism particularly the manner of testing of driving skill of the applicant. While granting the licence, almost absent are the considerations for various aspects of road safety, knowledge of the driver of all traffic rules & regulations and signs, the elementary mechanism of the vehicle which he is supposed to drive. The driver remains also unaware of his duties when his vehicle gets involved in any accident.

The following changes have been proposed :

1. The need for possessing a driving licence was earlier stipulated in case the vehicle is to be driven only in a public place. Now it is proposed that even for driving in a "private place", the person should possess the driving licence. Whatever risk is there for driving in a public place is also there in a private place.
2. The existing provision of "holding licence" has allowed differing interpretation inasmuch as "holding licence" does not mean "physically carrying the licence". To make matters more clear, it has been expressly provided that the driver should possess and carry with him his valid licence.
3. Category of "paid employee" which had been hitherto maintained as if he alone is required to exercise caution has been deleted. Since, affixation of photograph is compulsory for all and the person holding an endorsement to drive a transport vehicle can, if he so chooses, seek employment anywhere without specific endorsement from the Licensing Authority, this separate category is not required.
4. New classes of motorcycle have come up where some of them are without gears. Since the driving of a vehicle without gears does not require any special driving skill as in the case of other vehicle having gears and since such vehicles are used by school going children, the age limit for driving a moped has been reduced from 18 years to 16 years. At the same time it has been ensured that a person who is authorised to drive a motor cycle without gears is not authorised to drive a motor cycle with gears.

5. In the existing provision, a person driving a road roller need not have a licence. Taking into consideration the road safety aspect, particularly with reference to tremendous increase in number of vehicles on road, there is no justification for keeping the road-rollers outside the purview of driving licence. Hence the driver of the road roller is also made to take the licence.
6. *Procedure proposed for issue of driving licences is as follows :*
 - (a) Before getting a permanent licence, one has to obtain a learner's licence.
 - (b) for obtaining a learner licence, he has to undertake a written/oral test on traffic regulations based on Rules of the Road, prescribed under the Rules and requirements of first aid, a strict medical test.
 - (c) Learner's licence can be issued only if the person passes the written test and also the medical test.
 - (d) After obtaining a learner's licence he has to undergo a course of training for a period of 3 months in any recognised driver training schools according to prescribed syllabus.
 - (e) After successfully completing a driver training course he has to appear before the licensing authority for a test of competence to drive. He is also to produce the driving certificate issued by driver training school and also the medical certificate issued by the doctor at the time of appearing for driving test. The test shall be a comprehensive one covering aspects of driving skill, traffic rules and regulations, traffic sense, presence of mind, and the elementary mechanics of the vehicle.
 - (f) The test shall be as per check-list prescribed.
 - (g) If a person fails in the driving test he can appear for re-test only after the expiry of one month.
 - (h) This procedure will apply for issue of licence for driving any vehicle and for, addition of any class of vehicle on the licence.
7. Learner's Licence to be valid throughout India.
8. A person has to be tested for medical fitness only by one of the Medical Officers in the list approved by the Transport Department of the State, in consultation with medical authorities.
9. A detailed check list is prescribed for medical examination.
10. A similar detailed checklist for driving test is prescribed for driving test to be conducted by the Motor Vehicles Inspector.
11. In case of minors, the application for learner's licence to drive a moped should be accompanied by a written consent from either the parent or guardian. In case of no parent or guardian, a letter from a responsible person. Provision has been made to cancel the licence issued to minors, if either the parent or guardian withdraws the consent.
12. The Medical Officer and the Motor Vehicles Inspector are made accountable to their respective Departmental heads. In case any certificate issued by Medical Officer or Motor Vehicle Inspector, is found to be not based on actual facts, the concerned Heads of the Department is to take appropriate departmental action.
13. A provision has been made to permit a person hiring a motor cab to drive it himself under the newly introduced "Rent a cab" scheme.
14. Driving Licence to be carried by the driver will have to be issued in a book form of a small size, which should be of the uniform size throughout India. It is also proposed that the photograph to be fixed on the licence should be laminated, to prevent impersonation.
15. Drivers involved in major accident will be required to submit to reaction-test as also medical test. In case, on re-examination such a driver is found to be not suitable to drive a vehicle, his driving licence shall be cancelled. The driving licence of the person who refuses to submit to reaction test is liable for cancellation.
16. At present there is no provision to cancel the driving licence by the Licensing Authority on any ground. This is being provided specially to take care of situations where the licence holder has obtained the licence by fraud or misrepresentation or if the holder is convicted of automobile theft or the driver is a drunkard or a drug addict.
17. The compulsory medical examination at the time of every renewal of driving licence is presently restricted to the drivers of transport vehicles only. In the interest of road safety, this is considered essential for drivers of all types of vehicles and hence provided for.
18. Since the stress is being laid on a comprehensive training in the driver training school for the purpose of grant of driving licence, provision has been made for laying down rules for licensing of driver training schools.

The Driver Training School can be recognised only if it satisfies the availability in such a school, of expertise and equipment and the facilities such as class room, lecturer, qualifications for instructors of driving schools, location of driving schools, etc., requisite fitments in the vehicles used for imparting instructions to the trainees and periodical inspection of these vehicles for road safety. This will enable the State Governments to ensure that the driver training schools have sufficient expertise, up to-date equipment and facilities to train.

Such schools are subjected to periodical inspection by transport authorities to ensure the observance of the conditions of licence.

19. An enabling provision has been made for maintenance of National Register of all valid driving licences in the country to be maintained by the Government of India. Through such computerized data it would be possible to have complete record to verify antecedents of the drivers.
20. A provision has been made to empower the licensing Authority to call any holder of the licence to submit himself for Medical examination if the Authority comes to know that subsequent to obtaining his licence he has been found medically unfit.
21. The driving Licence will contain the full name and designation of the Testing Officer, on whose test of competence the Driving Licence was issued to the candidate.
22. If a candidate fails in the driving test, his deficiencies will be required to be pointed out, while rejecting his application for licence so that the applicant corrects the mistakes. Such candidate shall not appear for re-test within a period of one month.
23. The Driving Licence contains different categories of vehicles. For Motor Cycles, there now are two categories of mopeds, one with gears and the other without gears.
24. Driving experience in light motor vehicle has been made a pre-condition for the grant of endorsement to drive a medium motor vehicle and heavy motor vehicle (either passenger carrier or goods carrier). One should have a minimum experience of one year in Driving Light Motor Vehicle to become eligible to drive a Medium Motor Vehicle and experience of two years to drive a heavy motor vehicle.
25. In order to avoid fictitious address being given in the application for licence, it has been proposed that every application for a licence should be supported by recorded evidence of the correctness of the address. This will facilitate tracing of the drivers, involved in accidents.
26. Since under-aged persons are now coming up for driving licences, it has been made compulsory that the application should contain the date of birth with proof of age.
27. It has also been provided in the driving licence that the blood group of the driver should find a place so that in case of emergency there would not be any problem of finding out his blood group.
28. The validity of licence for driving transport vehicle is three years and for a non-transport vehicle is 5 years. But when an addition of a 'transport vehicle' is made in a licence to drive a non-transport vehicle provision has been made to restrict the validity to three years.
29. At present the power to disqualify a licence to drive a transport vehicle is vested in the Regional Transport Authority and power to disqualify licence to drive a non-transport vehicle is vested in the Licensing Authority. It is proposed to give both the powers to licensing authority for prompt and speedy disposal of cases. Powers of the licensing authority have been enlarged so that for any breach of the provisions of the Act or Rules, Licensing Authority can suspend or cancel the licence.
30. Existing Chapter II-A has been deleted.
31. The conductors are normally for the stage carriages. Their duties are mainly the collection of fares and issue of tickets and conduct a bus. In almost all the States the passenger buses are run by STUs, who through proper recruitment rules, recruit conductors and even in the case of a private employer the candidates' capability is assessed. Further, the licence of a conductor is not akin to that of a driver, where strict tests are required to be done. It is, therefore, proposed that instead of a licence by the Deptt. there should just be a system of authorization to act as a conductor by the employer himself. However, the provision has been made to empower the State Government to frame Rules regarding duties and responsibilities of the conductors and also empowering the licensing authorities to suspend or cancel the authorisation in case the conductors misbehave. Suitable provision is also being made for filing of an appeal against such an order.
32. At the time of renewal of driving licence, verification of antecedents of the applicants are not insisted. Today even though there is a provision to that effect, in view of the large number of licences in the country no licensing authority has been able to verify these antecedents. This can be made applicable only if the licences are computerized for which new provision has been introduced.

Registration of Motor Vehicles

1. 'Motor Vehicle' is a property. Its registration is a must. The existing law provides for registration of a motor vehicle if it is used only in a public place for the purpose of carrying passengers or goods. Any vehicle must be registered irrespective of the fact whether it is used on a public road or private road and whether it is used for carrying passengers or goods or not.

Section 22 has been suitably amended.

2. A provision is made for issue of Trade Certificate to cover the use of unregistered vehicles from the dealers' place to the registration place since under the existing Act due to absence of such a provision, it will constitute an offence even if the vehicle is brought to the R.T.O.'s office for the purpose of registration.

3. A provision has been made for approval of design of locally manufactured trailers by State Transport Authority before it is registered in order to regulate manufacture of such trailers, and to see that it conforms to rules relating to overall dimensions.

4. To prevent vehicles from being used under "For Registration" plates if has been made obligatory to have the vehicles registered within 24 hours after purchase.

5. The present system of recording transfer of ownership, Hire-purchase endorsement, hire-purchase cancellation by Registering Authorities other than the original Registering Authority has been creating several problems.

In order to curb these activities, it has been proposed that every application for transfer of ownership, endorsement and cancellation of hire-purchase agreement, duplicate Registraton Certificate shall be made only to the original Registering Authority. This will also help the original Registering Authority to maintain a correct Registration Record. This is considered necessary for feeding correct data to the National Registry.

6. It has been made compulsory that application for Registration, change of address, etc., should be supported by recorded evidence regarding the correctness of address so as to prevent fictitious address being given and thereby making it very difficult to trace the owners in case of accident or any other irregularities.

7. The application for registration should be accompanied by a Sale Certificate issued by the Dealer and the Certificate of Roadworthiness issued by the manufacturer. In case of registration of ex-army vehicles the certificate from Military authorities is necessary.

8. The size of the number plates have been laid down for uniformity. The plates should be painted with reflecting paints for easy visibility during nights.

9. It has been provided for affixing the specimen signature of the owner of the vehicle in the registration certificate and registration records so as to avoid any bogus application for transfer of ownership, etc.,

10. In case of a non-transport vehicle, the period of validity of registration is fifteen years, after which it has to be renewed. Since the provision relating to the renewal of registration of non-transport vehicles is not uniformly applied in the country and different State Transport Authorities give different validity creating complications, it has been laid down that the renewal of registration shall be for a period of 5 years.

11. Transport vehicles like trucks are being run for years though they pose hazards on the road, consume lot of fuel and emit excessive smoke. Presently there is no age limit for these vehicles. While it may, in the present economic conditions, not be possible to immediately stop overaged vehicles, trucks and buses coming on road, we have to do so in course of time in a phased manner. Enabling provisions has been made by which the Central Government has been empowered to prescribe age-limits of different types of vehicles, beyond which their registration and consequently the operations, shall not be valid.

12. The procedure for obtaining No Objection Certificate for Re-Registration of motor vehicles has been modified since in actual practice N.O.C. is not received in many cases and the purpose of N.O.C. is not served. It has been proposed that Re-registration can straightaway be done with an intimation to the original Registering Authority of the new number assigned. On receipt of the intimation, it will be the responsibility of the Original Registering Authority to verify the correctness and if there is any discrepancy found, to take steps for cancellation of registration. Fraudulent transfers would be thus curbed.

13. For Temporary Registration the period of validity (the existing maximum 3 months) has been relaxed so as to empower the Registering Authority to extend the period according to the circumstances.

14. Presently Government vehicles are not required to be produced before RTO for purposes of registration, on assumption of the Head of the Office certifying the fitness. Since the Heads of Office are hardly in a position to do so it is made compulsory even for vehicles owned by Government to be produced before RTO, more so for reasons of road safety aspect.

15 The Registering Authority has been given more powers to cancel the registration which include the following categories also :

- (a) Stolen vehicles,
- (b) Embezzled vehicles,
- (c) Failure to furnish the required information.

16. To check stolen vehicles being registered as new vehicles or re-registered, a new provision has

been made that State Police Headquarters should notify all Registering Authorities the details of stolen vehicles and recovered vehicles.

17. Provision does not presently exist for laying down the procedure for transfer of registration in the case of death of the registered owner and also in the case of vehicles purchased through Public Auction conducted by Court and Government departments. This has now been provided.

18. If there is to be any Control Order in relation to distribution and sale, permission of the Controller should be obtained before transfer of ownership.

19. A new provision is made to include registration of vehicles under Lease Agreement also, along with hire-purchase and hypothecation.

20. Hire Purchase sector and nationalised Banks advance huge sums of money for the purchase of motor vehicles. According to an estimate roughly eight hundred crores of rupees are advanced towards the purchase of Motor Vehicles by these agencies. In the interest of continuity of their contribution to the growth of road transport sector, the interest of these financiers also need adequate safeguards. It has been provided that in respect of a motor vehicle held under hire purchase agreement or hypothecation or lease agreement, if any change is effected in the Registration Certificate regarding alterations, change of address, etc., financier should be notified by the Registering Authority. And in so far as important aspects such as transfer of ownership, the duplicate R.C. or Re-registration is concerned, the owner should be asked to produce N.O.C. from the financiers on the lines of existing provisions under sub-section (5-A) of Section 31-A.

21. The existing provision under sub-section (5) of Section 31-A which empowers the Registering Authority to issue a fresh certificate of registration to the financier is ambiguous. It has been slightly modified for the purpose of clarity.

22. Transaction regarding transfer of ownership, H.P. endorsement and cancellation, duplicate issue to be done only by original Registering Authority.

23. Registering Authority should intimate the transfer of ownership to the Transferor.

24. For any alteration in the Motor Vehicle, prior permission from the Registering Authority has been made compulsory, since it is felt that any exemption from the provisions will be against the interest of maintenance of correct registration records.

25. The existing powers under Section 33 to suspend the registration of motor vehicle for using it for hire or reward without a permit has been deleted in view of the fact that the manner of dealing with such offences are separately provided under Section 42, 123 and 129(A).

26. The Registering Authority has been given powers to cancel the registration in the following circumstances also :

- (a) Registration of motor vehicles which are stolen and treated as undetected by the police.
- (b) Insurance companies treating the vehicle as total loss.
- (c) If the Engine No. and Chassis No. found in the vehicle are different from those recorded in the Registration Certificate.
- (d) Registration Certificate obtained by making false representation and producing false documents.

27. At present appeal has been provided against the orders of the Registering Authority only in certain cases like refusal to register, re-register, refusal to issue fitness certificate and against cancellation of registration. There is no provision for appeal against refusal to transfer the ownership of vehicles. It has now been provided that any order passed by Registering Authorities is appealable.

28. Penalties have been provided for late submission of applications for transfer, re-registration, etc.

29. A check list is prepared for inspection of vehicles for fitness certificate.

30. There is no uniformity with regard to the validity period of fitness certificate for transport vehicles, issued by transport authorities. In order to have a uniformity the period of validity has been laid down as one year for the initial grant of fitness and 6 months for subsequent renewals.

31. Enabling provisions is made by which the Central Government has been empowered to maintain a National Register of valid Registration records, which will enable to computerise the registration records of vehicles in the country.

Permit System and Control of Transport Vehicles

As indicated in the Approach, though the permit system has inevitably to be accepted as a necessary means to regulate transport operations, the attempt has been to reduce multiplicity of types of permits and ensure their easy availability by eliminating irritating complexities. For this purpose, the following basic changes are proposed in the existing system :—

1. With regard to Goods Carriers Permits, it is proposed that there should be only two types, namely; ..
 - (i) Intra-State Permit, and
 - (ii) Inter-State Permit.

These can be used for transporting one's own cargo or for plying for hire or reward as the permit holder may wish. As a consequence, following existing categories of goods vehicles permits are deleted :—

- (a) Public Carrier permit, under Section 56 of the existing Act.
- (b) Private Carrier Permit, under Section 53 of the existing Act.
- (c) Permit of bilateral agreement under Section 63 of the existing Act.
- (d) Permit under Zonal Permit Schemes under Section 63 of the existing Act.
- (e) Permits under Section 63(11) of the existing Act.

It is also proposed that

2. Anyone wishing to carry inter-State operations, whether it is for country-wide operations or even if it is for operation in any one, two or more States, in addition to his Home State, he shall be entitled for intra-State permit. The permit issued by any State Transport Authority will be valid in any part of the country without requirement of counter-signature by the other STA and with the facility of single point payment of taxes/composite fee.
3. With regard to the permits for passenger vehicles they are basically of only two categories namely the Stage Carriage Permits and Contract Carriage Permits. The passenger vehicle can either be a public service vehicle carrying passengers for hire or reward or a private service vehicle used as staff-buses by companies and institutions. There can be no further sub-classification in regard to the Stage Carriage Permits except different nomenclatures indicating different seating capacities of the vehicle.
4. As for Contract Carriages, the permit has to correspond to the desired use of the vehicle to meet particular needs of area coverage and duration of journey. The contract Carriage Permit has thus to correspond to the operator's needs, which vary from time to time. Accordingly the provisions have been made for easy availability of permits under this category to suit the varying needs, viz:
 - (a) provision has been made that the Contract Carriage Permit, at the initial stage itself shall be for State-wide operations removing existing restrictions of district-wise operation;
 - (b) for meeting the requirements of journey even outside the State for short duration, existing facility of the Special Permit is proposed to be continued;

- (c) the scheme for All India Permit for tourist vehicle has been revised to make it more functional eliminating the scope of misuse. Under the proposed scheme, the permit-holder can opt for any number of States for operations provided the minimum number of States including the 'Home State' is five, that for operating in other States chosen by the operator, the authorization shall be given by the Home-State Transport Authorities. The permit shall not require counter-signature of other States and there will be facility of single point payment of taxes/composite fee along with authorisation.

5. Procedural simplifications made are as below :—

In the matter of grant of permits to goods vehicles for plying in the State, at present, Transport Authority decides on the number of permits to be issued, then notifies the vacancies and calls for applications. Applications received in response to advertisements are published inviting objections/representations. Thereafter the applications and the representations are considered at a public hearing and the STA in the meeting makes selections out of total number of applications for allotment of permits. The Transport Authority has been empowered under the Act to fix the maximum limit on a number of permits to be granted, in the matter of inter-State operations the procedure is more cumbersome. For permits under bilateral agreements, the 'Home State' and neighbouring State have to come to an agreement as to the number of vehicle to be permitted on inter-State routes, publish the agreement, invite representations and objections, hearing the objections and then finally publish the agreement. After the final publication of this agreement permits are granted for inter-State operation. Zonal Permits are subject to multilateral agreement amongst participating States. After this the procedure enumerated for bilateral agreement applies. In the case of national permits for public carriers, till recently, the Central Govt. had been specifying the number upto which Transport Authorities could make the allotments by following the procedure of notification, calling for objections, disposing off the applications at public hearing by the STA.

This entire procedure is proposed to be done away with. As for intra-State permit, it is proposed that any person wanting to operate a truck within the State can get a permit across the counter, without the above indicated procedure. The provision empowering the Transport Authority to

fix the maximum number has also been deleted. The permit is made valid for operation throughout the home-State without counter-signature by Transport Authorities of the other regions of the State.

As for inter-State permits any person wishing to operate either throughout the country or any number of States even if it is only one State in addition to the Home State can straightway approach the State Transport Authority and get the permit across the counter. The permit shall be accompanied by the authorizations for operations in the States chosen by the operator. All other procedural formalities are proposed to be deleted.

In respect of Stage Carriage permits, the need for ensuring regulated and co-ordinated services in the interest of public convenience is paramount. Hence the provision for fixing the number by the State Transport Authority, of Stage Carriage Permits to be granted at any point of time for operation on any route has been retained, but all avoidable formalities have been removed. The present provisions is that anyone who wishes to operate a Stage Carriage can make an application six weeks in advance of the date from which he wishes to operate the service or within such date as may be fixed by the Transport Authority. In view of the former part of this provision, it is possible for anybody to make any application for any route at any time making it very difficult for Transport Authority to have a balanced judgement as to the needs or otherwise of the services. It has been now provided that an application can be made only when the RTA/STA takes a decision to open a route and call for applications. Simultaneously, the existing provision which makes it obligatory on the part of every applicant to furnish a security deposit along with his application, has been deleted.

With regard to the procedure for Contract Carriage permits the existing practice of obtaining a district permit and then a State-wide permit on the basis of formality of counter-signature has been replaced by a new provision for straightaway grant of State-wide permit without the need for counter-signature. In respect of special category of vehicles, namely, the Private Service Vehicles, used by institutions, project authorities and other companies to cater to the needs of employees to move from office to residence and work spots, similar provision for State-Wide permit is allowed.

6. Procedure for Renewal of permits, which, hitherto, has been treated as similar to the

initial grant of permits, has been criticised by the operators both in private and public sector, as a source of variegated irritations. This has been removed.

(a) Renewal of all permits has been made automatic subject only to the condition of good past performance;

(b) the time within which application for renewal should be made has also been made uniform in all cases i.e. an application should be made to the Transport Authority before 15 days of the expiry of the validity. Powers have also been given to Transport Authority to condone delay on genuine grounds;

(c) the existing provision makes it obligatory on the part of Transport Authorities to notify applications for renewal of Stage Carriage Permits calling for representations. There are cases where with reference to such notifications, counter petitions are filed requesting for the grant of permit in their favour in view of renewal of permits. This procedure has given rise to avoidable litigations. This will be eliminated as result of automatic renewals and not treating the applications for renewal as fresh applications for permits.

7. Validity period of all types of permits has been made uniform, 5 years as against the existing 3 years and 5 years, which has led to disparities.

The existing provision does not provide for validity of counter-signature permits. Provision has been added so that the validity of counter-signature is made coterminous with the basic permit.

Other changes made are as follows :—

8. In the existing provision under Section 42, it is not specifically provided that a permit holder should be the owner of the vehicle with a result that different interpretations are given by different STAs. The matter is clarified by suitable modifications.

9. There is a provision that only transport vehicle should obtain a permit. It is felt that clandestine operations of non-transport vehicles by carrying passengers should be curbed, hence wherever any vehicle is used as the transport vehicle such as a car being used as a passenger vehicle, or a goods-vehicle, for hire or reward, should also have a permit.

10. Vehicles below 3000 kg Gross Vehicle Weight have been exempted from taking permits, since these vehicles are only used for transporting goods from main markets to mini markets.

11. Following additional classes of vehicles have been exempted from taking out permits:—
 - (a) Transport vehicle purchased in one district and going to other district in the same State.
 - (b) Use of transport vehicles on deviation routes in case of road blockade and natural calamities.
 - (c) Vehicles pressed into service by Govt. for meeting emergency needs.
 - (d) Vehicles seized by the financiers for failure of payment of dues, while being taken to the premises of the financiers.
 - (e) Vehicles used for conveyance of mourners along with dead body.
12. A new provision has been made under Section 43(3) to clarify that fares and freights may be inclusive of tax on passengers and goods carried. This practice is already in vogue in a number of States.
13. A new provision under Section 43-A has been introduced whereby the State Govt. can issue directions to Transport Authorities to open new routes or introduce additional buses on existing routes. This has been done since the matters are held to be of administrative nature.
14. Existing rigid provision of possession of judicial experience for being a Chairman of RTA/STA has been found to create avoidable difficulties. What has to be ensured is that the person is a responsible senior level officer with wide experience. Provision has been made to that effect.
15. Enabling provision is made empowering the State Govt. to constitute single member RTA/STA with one official at times when it is considered expedient.
16. A new Section 44-A has been introduced to enable the State Govt. to empower any officer or authority to exercise and discharge the powers and functions of the Transport Authority in lieu of such authority, when circumstances so warrant.
17. One of the serious impediments in timely revision of fare structures of Stage Carriage services has been the lengthy and cumbersome procedure. It is proposed to replace the same without sacrificing the element of expression of public interest in the decision-making. In place of the existing procedure for fixation of fares for Stage Carriages which involves a lengthy procedure of draft publication, inviting objections, hearings, etc., it is proposed that fares may be fixed by the State Govt. with the approval of the State Legislature, and in case of urgency, the State Govt. may have powers for provisional fixing of fares, subject to **ex-post-facto** approval of the legislature.
18. Since there is no uniformity in the number of members of the RTA and STA it has been laid down that the number shall not exceed 5 in case of STA and 3 in the case of RTA including the Chairman. This will take care that these bodies are not unwieldy and are functional.
19. It has been provided that before the RTA decides to open a route, it shall take into consideration the relevant aspects of any of the schemes under Section 68-C and also take into account any representation from the public.
20. The decision of the RTA to open the route under Section 47(3) and fixing the number of permits has been made final and non-appealable. The Courts have also held that these are purely administrative decisions.
21. In the context of avoiding unhealthy competition and avoiding wastage of national resources the RTA/STA have been empowered to limit the number of vehicles to be granted Contract carriage Permits for operation in the State.
22. A concept of "renting a motor cab" to the user has been introduced providing for licensing of operators of Tourist Cabs approved by the Deptt. of Tourism. The tourist, if he wishes, can straightaway approach any of these operators, hire a taxi and drive. Necessary conditions have been stipulated regulating the grant of licences to the operators and the procedure to be followed in renting such cabs.
23. The distinction between public carrier and private carrier has been taken away and only one category as 'goods carrier' has been introduced.
24. A goods carrier permit can be straightaway issued by the RTO. The existing procedure of notifying applications, hearing applicants, representations, etc. has been done away with. RTO can issue permits without following any procedure.
25. Application for permits, other than Stage Carriage Permit, can be made at any time.
26. Application for Stage Carriage Permit can be made only when called for. This is to avoid unending stream of paper work and litigations.
27. The concerned authorities have also been empowered to reject the application if received without any reference to the invitation of applications.
28. Private Service vehicles such as staff-buses used by companies and projects have been brought under permit control. In this regard, the State have been so far following their own procedures by Rules.

29. In order that there is no delay in disposal of applications of Stage Carriage Permits, it has been now laid down under Section 57 that the transport authorities should dispose off the application on a time bound basis, and that the normal application should be disposed off within a fortnight and if there is any objector to the application, within one month.
30. As per the interpretations given by the High Court for Section 57(8) one permit can have more than one vehicle; this runs contrary to the provisions of the Act elsewhere which empowers the RTA/STA to refuse to entertain applications when a maximum number fixed by the RTA/STA is already reached. In order to remove this ambiguity Section 57(8) has been suitably modified to provide for preventing applications being made for inclusion of additional vehicles in the same permit.
31. At present there are no guidelines regarding grant of variations in the distances to be covered by vehicles under Stage-Carriage Permit. The need arises when some one applies for extending the services to cover wider area. A new provision has been made that a variation of a Stage Carriage Permit can be granted upto a distance of 24 kms, which facility is available now only where Transport Authorities suo moto varies the condition of a Stage Carriage Permit.
32. Provision has been made empowering the transport authorities to entertain belated applications for transfer of permit in case of death of the permit holder.
33. The Form of the permit has been modified to suit the requirement of grant of one permit for one vehicle.
34. Section 60 dealing with suspension & cancellation of permits at present does not provide for knowing by the permit holder the reasons for suspension of permit nor is there reasonable opportunity to explain. Provision has been made to record reasons for rejection and also for giving an opportunity to the permit-holder before suspending the permit.
35. A new provision has been made to empower the counter-signing authority to suspend the counter-signature permit as the existing section leaves the counter signing authorities helpless in curbing the clandestine operation.
36. Though consequent to liberalisation, there would be easy availability of substantive permit itself, by way of abundant caution the provision relating to the grant of temporary permits has been retained as there may be unforeseen situations. To the existing categories of temporary needs a general clause is added that temporary permits may be granted by the authority as the circumstances may warrant.
37. While the State-wide permits had been made as a normal feature, in respect of permits for goods carriers, private and public service vehicles or the contract carriages, the same facility has not been extended to autorickshaws which also fall in the category of contract carriages. This is for the simple reason that the normal limits of their plying areas are within the precincts of municipal areas.
38. The existing provision under Section 45 has been slightly modified, to clarify that while for intra-State permits, application has to be made to the Transport Authority in whose jurisdiction the applicant resides or has his principal place of business, in the case of application for inter-State permit, it has to be made to STA of the State in which he resides, or has his principal place of business.
39. Under the provision of Section 47(1) making of representation has been restricted to only certain classes of persons. The restrictive class has been taken away and has been modified to permit making of representation by any interested person.
40. With the grant of across-the-counter permits, the existing provision for reservations in the matter of goods carriers permits has become redundant and hence deleted.
41. The long list of conditions to be attached to Stage Carriage Permits, goods carrier permits and Contract Carriage Permits now forming part of Section 48, 51 & 53 has been omitted. This now finds a place under the Rules.
42. Similarly the columns and application forms now finding place in Section 49 has been deleted. This has been brought under rule making powers for prescribing of form.
43. A clarificatory provision has been made in regard to the Contract Carriages that the RTA/STA may fix the number of permits to be granted, at any particular point of time, on the basis of assessment.
44. Provisions relating to the Inter-State Transport Commission have been deleted since for quite some time it has been found to be non-functional and further when the system of grant of inter-State permits has been made easy without requirement of counter-signature, there does not remain any reason-deter for such a statutory body.

45. When the permit-holder dies, the legal heir has to make an application for transfer of permit within 90 days. If it is not made within this time-limit, the application gets rejected. This causes hardship. Hence power to condone the delay in genuine cases has been conferred on the Transport Authority.
46. Since goods carriers are to be granted inter-State permit without any restriction in number, this category has been taken out of the purview of the inter-State agreements. Such Agreements will now only be confined to operation of stage and contract carriages. Even here it has been the experience that the States take quite a long time to finalise these agreements. It is proposed that all formalities of such agreement should be completed within a time-limit of one year so that uncertainties of transport services are not faced.
47. Facility of Special Permits for carrying contracted parties has been retained with the modification that the vehicle operating under the Special Permit should have a basic permit. This is to ensure that there are no clandestine activities undertaken by idle vehicles. Otherwise there is no control on their movements, as they are not covered by any basic permit.
48. Provisions relating to All India Permits for tourist buses and cabs have been modified to spell out the revised scheme, under which permit can be granted to the operator, who may opt for operation in any number of States, provided he chooses a minimum of five States including the Home State that he may be given authorization for operations in other States, with facility of non-requirement of counter-signature and single-point payment of taxation.
49. In the matter of grant of permits for tourist vehicles, the categories of STUs and ex-servicemen have been added to the existing categories of State Tourism Depts., ITDC, State Tourist Corporations, and travel agents/operators as approved by Tourism Deptt.
50. In order to avoid monopolistic operations, the maximum number of permits that can be granted to any one individual or the firm has been fixed as three and seven. Principle of reservation for SC/ST has also been made applicable to the All India Tourist Permits for buses and taxi cabs.
51. In view of only one category of inter-State permits for goods carriers existing provisions of 63(11) to 63(15) become non-applicable and hence deleted.

52. Provision for collecting security deposit along with applications for tourist permits has been deleted in view of the fact that the existing provisions under Section 60 are considered sufficient to check any violation.
53. Several advertisements are appearing in the newspaper about arranging tourist travel by travel agents and asking for remittance of advance money. The public are not in a position to know whether these travel agents are approved by the Transport Authorities. A provision has now made that every advertisement by a travel agent shall bear the particulars of licence number and name of the licensing Authority, which has rendered the licence, so that people may not get duped.

Provisions relating to schemes of nationalization of routes/areas for STU operations

The system of schemes of nationalizing the route or areas for operation by the State Transport Undertakings have its origin in the concern for augmenting requisite services for passenger transport. Private operations, guided by the profit motive alone were inadequate, un-coordinated and more or less confined to urban centres. As a concomitant to the process of planned development, provision of infra-structural facilities through public sector undertakings has been a necessary step. Special provisions in the Motor Vehicles Act for STU operations can, however, be improved upon and revised in the light of experience in their working. The main consideration here is to achieve the object of meeting the needs of the growing traffic volume.

2. Existing provisions envisage formulation of Draft Schemes for exclusive or partial operation by the STU. The management of the State Transport Undertaking, on the basis of opinion formed by them regarding need of services have been publishing such Draft Schemes. The publication of the draft schemes is not subject to approval of either the transport authority or the State Govt. It is only afterwards that the process of finalization of the Scheme begins which involves inviting of objections, personal hearings and finalization of the scheme on approval by the State Govt. It is seen that quite a number of draft schemes continued to be only at the draft stage for years together due to time taken by State Govt. in approving or otherwise of the draft schemes. However, during the currency of draft schemes the STUs are allowed exclusive rights to get temporary permits and operate. On approval of the Schemes also the implementation to the full extent takes time. The net result is that on the one hand, this process does not ensure satisfying of the public needs for transport services adequately and on the other hand, it prevents private-sector participation to supplement the shortfall in services.

3. To rationalize the process, following changes are proposed :—

- (1) For any Draft Scheme formulated by the STU it shall be necessary that before its

publication, the STU should get the prior approval of the State Govt. who are expected to consider all relevant factors including assessment of traffic needs, desirability of the exclusive or partial operation by the STU, the infrastructural facilities available with the STU and the extent to which bus-services should be augmented. It is felt that publication of a draft scheme for nationalization of a route/area is too important a matter to be left to the discretion of only the operator even if he is in this case ■ public sector undertaking.

- (2) Prescribing of a time-limit within which the State Govt. shall complete all processes of approving the scheme, Final publication and the implementation by the STU. it is provided that the time-limit for all these processes be one year from the date of publication of the draft scheme. In the event the draft scheme is not finalized and implemented by the STU within this period, the scheme shall be treated as lapsed, with further provision that such a lapsed scheme shall not be republished for a period of three years. It has also been proposed that when the schemes gets lapsed, alternate transport facilities shall be augmented by the Transport Authorities through services either from private operators or from public sector undertakings. This is to ensure that the normal transport services are not dislocated and public is not inconvenienced and also that the private operators are enabled to serve the public in the atmosphere of certainty for a reasonable period of time. In the event of STU subsequently possessing the infrastructural facilities and resources to enable intended operations, they may publish a scheme after a lapse of three years for the reasons stated above.
- (3) In the matter of draft schemes for covering inter-state routes, the home State shall be required to obtain clearance from the concerned States, and the Central Government who while giving the clearance shall consult the concerned States.
- (4) In respect of schemes for inter-state operations, ■ provision has been made that the copies of any such notification relating to the draft schemes as also the approved scheme should be sent to the concerned State for appropriate action.
- (5) The opportunity to make representation is made available to any person interested as against the existing provision of restricting the opportunity to a certain class of persons only.
- (6) A new provision has been made enabling the State Government to summarily reject any representations made out of time in

connection with publication of ■ draft scheme.

- (7) Under the existing provisions, it is provided that no appeal can be filed against orders passed by the Transport Authorities under this Chapter. This has given rise to a situation where revision petitions were filed against such orders. Unnecessary litigation need to be avoided for which revision petitions should also be barred. Now this is sought to be included.
- (8) When ■ draft scheme is notified the existing provision bars grant of ■ new permit in the area covered by the draft scheme. But it has been interpreted that the bar is only for the grant of ■ new permit and that it will not affect application for grant of variation or extension covering the area mentioned in the draft scheme. By this interpretation, the very purpose for which the Scheme has been notified gets defeated. Therefore, the Transport Authorities have been precluded from granting any variation, extension or curtailment of routes covered in the draft Scheme.
- (9) The existing provision in the matter of grant of renewal of permits of private operators covering the areas in the draft schemes leads to different interpretations. As a matter of clarity it has now been laid down that any application for renewal of permit of a private operator can be sanctioned by the Transport Authority conditionally.
- (10) During fairs and festivals, operation of additional services by the State Transport Undertakings are now covered by temporary permits to be issued by the Transport Authorities in advance. A provision has now been made to enable the State Transport Undertakings to operate special services and then approach the Transport Authorities for formal approval within 24 hours.
- (11) Provision has been made that when State Transport Undertakings withdraw their buses from routes covered by the Draft Scheme, the State Governments can direct the Transport Authorities to grant temporary permits to private operators. This is only to see that public interest are not suffered.
- (12) The nationalization of routes or area envisages payment of compensation in accordance with formula prescribed. The payments sometimes gets delayed, for which there exists under the Act, a provision for payment of interest thereon. The rate of interest at 3.5% is proposed to be raised to 10%.

Construction Equipment and Maintenance of Motor Vehicles.

Defective vehicle is a hazard on the road. Ensuring quality control in respect of various components used in the motor vehicles, safety devices to prevent road accidents, fitment of pollution control of air and noise and other equipment as speed governors, safety glass are important in motor vehicles which are permitted for plying on the road. For this purpose, the following changes are proposed:—

- (1) Power to make rules in respect of speed-limit devices, smoke-emission levels, signalling appliances etc. is proposed to be transferred from the State Governments to Central Government for uniform applicability throughout the country;
- (2) A provision is proposed that all critical components of the vehicle shall conform to the standards and specification as would be prescribed by the Central Government. The Central Government shall issue notifications detailing standards in respect of identified components considered important from the point of road safety, and pollution control;
- (3) Enabling provisions have been made to empower the Central Government to make rules for nominating expert authorities for laying down standards and specifications of components and for certifying the observance thereof at the stage of manufacture of vehicles.
- (4) It is made a specific condition that prior to the grant of registration certificate to a vehicle it must satisfy the requirement of not only the quality of components but also aspects of in-built safety and pollution control.
- (5) Transportation of hazardous material like certain injurious chemicals and explosives is a matter that requires extra care and caution. So far there has been no rules for the same. Provision is being made for regulating transport of such hazardous materials including the manner of transportation, aspects of WARNING symbols, transportation emergency cards, special restrictions of parking of such vehicles, standards for material used for packing etc.
- (6) Enabling power to the Central Government to exempt any of the motor vehicles from the provisions of this chapter to take care of any emergency situation. Imported vehicles are excluded from the provisions of this chapter since manufacture of those vehicles would be governed by the rules as may be laid down by the respective country.
- (7) For purposes of identification of motor vehicles, requirement of embossing of engine number and chassis number on the chassis itself is embodied.

- (8) It has been provided that Regulations in respect of emission of smoke levels will be in consultation with Central Pollution Control Board, which is established under a separate statute and specifically entrusted with the responsibility of pollution-control.
- (9) With regard to motor cycle, special provision is made that it should not be so constructed as to have its handle bars higher than the shoulders of the driver, since this creates abnormal sitting.
- (10) Delegation of powers—Normally where Central Government is vested with the rule making power, the rules would be prescribed by the Central Government but there may arise certain circumstances where exemption from this stipulation is to be done. Such re-delegation of authority should not prove bad in law and hence specific provision for sub-delegation in the main Act is provided for.

Control of Traffic

The need for proper regulations of traffic in the cities as also on highways needs no over-emphasis. The phenomenal growth in the vehicle population, the fast changing vehicle-mix, the fast-moving and slow-moving vehicles vying with each other to claim the limited road space, drivers and other road users with varying degrees of concern for road discipline—all these have been presenting a very challenging traffic scenario to the enforcement agencies, who themselves, many a time, are inadequately equipped for the task. The number of road accidents as reported during the past few years have been showing a rising trend. According to one estimate, there are over 400 reported road accidents every day in which 70 persons are being killed and over 300 injured. Such a situation along with added concerns for control on pollution and carrying of hazardous and explosive materials etc. make it imperative that adequate measures are taken. The traffic control has therefore to be looked into from two angles namely the regulating of traffic by checking violation of prescribed rules and regulations and secondly to create conditions favourable for safe operations of motor vehicles on the highways.

The changes proposed in the existing provisions are as follows:—

- (1) The existing Act provides only for the maximum speed limits. Experience has shown that slow moving vehicles also create traffic hazards. In order to obviate these obstructions a new provision has been made that in busy thorough fares as may be specified by the authorities, minimum speed should be observed.
- (2) According to the existing provision when a goods vehicle is found overloaded, the excess goods are to be unloaded and kept at the risk of the Govt. There is hardly any implementation of this provision. Requirement of

keeping the goods at Government's risk is rather strange. A new provision has now been made to unload the excess goods at the risk of the owner or driver of the vehicle in order to have a very deterrent effect on overloading. The overloaded vehicle will not be allowed to go unless the excess loads are unloaded.

- (3) At present the traffic signs are not visible during nights. The Chemical technologists observe that some paints have been developed, which are reflected during nights. A provision has, therefore, been made that traffic signs should be painted with reflecting paints.
- (4) There is a provision in the existing Act that any sign or advertisement, which obstructs traffic signs can be removed by the Magistrate. This provision has been slightly modified to include any such sign which distract the concentration of the driver. The power to remove the signs has been entrusted to the police authorities in view of the aspect of traffic control done by Traffic Police Authorities.
- (5) Under the existing provision any main road has to be notified in the official Gazette for the purpose of erection of traffic signs. It is felt that such a cumbersome procedure is not necessary and that it will be enough the fact of any road being treated as main road is indicated by erecting proper traffic signs. The existing provisions has, therefore, been deleted.
- (6) During the strikes organized by drivers of transport vehicles, it has become nowadays a common practice that drivers take the vehicle and put them on the road in such a way as virtually blocking the traffic and inconveniencing other road users. It is felt that a provision should be made to avoid such action on the part of drivers. A new provision, has therefore, been made making it an offence to abandon their vehicles on the road causing obstruction.
- (7) Unattended vehicles and defective vehicles are often found abandoned on the roads, sometimes even for days together, impeding the free flow of traffic on the highways. It is important that the owners of such vehicles do not treat highway as the parking place for such vehicles for a period more than what is reasonably necessary. A new provision has, therefore, been made that if such vehicles are found on the road for more than 10 hours it could be towed out of the road at the cost of the owner, and secondly that if such vehicles are found to occupy the road, a penalty has to be levied on an hourly basis. This has been done with a view to clear the highway of traffic bottlenecks.
- (8) Under the existing provision the driver of a vehicle is prohibited from carrying any person riding on running board, but in actual practice it is found that many passengers travel on footboard. A new provision has, therefore, been made to make footboard traveller also punishable besides the driver.
- (9) According to the present provision no person shall travel without a ticket. The responsibility of getting a ticket is now on the passenger. It is felt that a conductor should be mainly responsible in demanding and issuing a ticket. This provision has been suitably modified, fixing the responsibility both on the conductor and passenger.
- (10) Pillion riders are taken on motorcycle which are not properly gripped with any grips, etc. a new provision has been made that pillion rider should not be taken unless the saddle is fixed with proper hand-grip and footrest adjusted to fit such person.
- (11) There were some motorcycles found on the roads with handlebars above the height of the shoulder of the driver. A new provision has been made that no such motorcycle which has handlebar higher than the height of the driver shall be used on the public roads.
- (12) Under the existing provisions, Central Govt. are to make rules in the matter of wearing of helmets by riders of motorcycles, but keeping in view the differing appreciations of making wearing of helmets mandatory as per requirements of local traffic situations, it is proposed to empower State Govts to make rules in this regard keeping in view the local conditions.
- (13) Now a days, drivers of motorcycles are found to use the earphones while driving. This is dangerous to public safety since they will be absorbed in the earphones and will not be able to concentrate on the roads, a new provision has been made to prevent wearing of earphones (headsets) while driving the vehicles.
- (14) The motor vehicles on the roads are emitting excessive smoke either on account of defect in the engine or defect in mufflers. In addition to emission of excessive smoke, it also creates lot of noise. Similarly musical horns and horns emitting shrill noise are also found being used. The use of such horns and mufflers lead to noise pollution and air-pollution. A new provision has been made prohibiting the use of defective mufflers and multi-toned horns.
- (15) Driver of a motor vehicle is supposed to carry with him the documents such as registration certificate, permits, etc. Circum-

stances may arise where these documents are not in his possession when demanded to be produced by a police officer. The existing provisions are that these documents can be produced at any police station in India within the days specified by the checking officer, but this seems to be not workable, and, therefore, a provision has been amended to enable the driver to send certified copies of these documents, duly attested by a sub-inspector of any police station.

- (16) Measures for traffic control are administered by the traffic police authorities. In order that powers conferred on them are used responsibly and judiciously, a provision has been made that any action against the violators of regulations should be taken by the police officer not below the rank of police sub-inspector as against the present permissibility of action being taken by any policemen on the road.

- (17) The existing provision relating to duties of drivers in case of accidents is not exhaustive and many drivers are not aware of their duties when their vehicles are involved in accident, such as reporting the matter to police station, taking the injured to the hospital etc. The existing provision has been modified so as to provide exhaustive details of the duties of the drivers failing which the driver is punishable under the existing provision in Chapter IX.

- (18) At present there is no mandatory provision to undertake scientific analysis of accident cases by the Transport Departments or the traffic police authorities, who concern themselves only with a modicum of statistics. Unless periodical analysis is made, relevant corrective measures are not possible. The system of traffic control envisages measures to suit the changing needs. A new provision is made making it the responsibility of Transport Departments of the State Govt. to get, on a continuing basis, analysis of accidents made, for suitable actions in the fields of road-engineering, driver training vehicle testing etc.

- (19) While one aspect of control of traffic is to regulate operations by checking violations, the other side of it is to create conditions favourable for safe operation of motor vehicles on highways. Towards this end, a new provision has been made that the State Govts. shall establish Truck-parking and wayside amenities complexes at suitable locations along national and State highways. These will provide resting places for drivers & crew of trucks which are to cover long distances. Driver fatigue is one of the significant contributory factors to road accidents. Hence the essentiality of such complexes.

- (20) A new provision is also proposed that the State Govt. shall arrange Highway Patrolling on National & State Highways. The Scheme of Highway Patrolling may be implemented by establishing Traffic-aid-posts at every 50 or 60 Kms., along the highway. Adequately manned and well-equipped Traffic Aid Posts can be entrusted with the twin-responsibility of patrolling within the assigned jurisdiction and in the event of any road-accident happening, to render assistance to the victims.

- (21) More tourists are now put to lot of inconvenience by wayside vendors and traders. There is no provision in the existing law to put an end to this menace. A new provision has been made prohibiting vending and trading on the highway causing obstructions to road users and make it an offence punishable.

Insurance of Motor Vehicles and Adjudication of Claims for Compensation in Respect of Accident Caused by Motor Vehicles

In relation to this subject matter, revisions attempted have been of two types. Firstly since the earlier provisions for insurance against third party risk were made prior to the nationalization of General Insurance Business some of the provisions have become inoperative and some required modifications. Necessary changes have been made. Secondly the suitable simplification of procedure to enable expeditious settlement of claims for compensation in accident cases. Following changes have been made :—

- (1) As a consequence of insurance business now being under nationalised Corporation, definitions of "authorised insurer", certificate of insurance have been modified, and provisions relating to requirement of security deposit by insurers, and that of Co-operative insurance, have been deleted.
- (2) Third Party Insurance, which is presently required only in the case of vehicles used on public road, has been extended to cover vehicles plying on private road also. Driving on the private road may also result in accident and consequent claims for compensation.
- (3) Certain categories of persons such as gratuitous passengers in a private Car, hirer of a truck or owner of goods travelling in a truck carrying his goods, are presently excluded from the liability of insurance in case of accident. It has now been provided that the third party-insurance will also cover the liability of Compensation in respect of such persons also. Law Commission has recommended such modification,

- (4) The existing provision has laid down the quantum of total liability of the insurer in respect of insured vehicle such as good vehicle or passenger vehicle. However the insurer's liability in certain cases has been interpreted as being relating to the persons involved in accident and if more than one person are involved in the accident, the liability of the insurer to be in relation to every such person as if each person has been involved in separate accident. To make the intention clear, explanatory note has been added that the amount specified relates to that total liability in relation to the vehicle involved in an accident.
- (5) The existing provisions inserted through the M.V. (Amendment) Act, 1982 relating to compensation under No Fault Liability Principle, and forming a separate chapter, have been incorporated under this chapter.
- (6) One of the defences permissible in claims-cases fought on "proof-of-Fault" basis is that the sum shall not be payable by insurer unless insurer has been given notice of any such claim before the tribunal. It is interpreted in some quarters that this provision is applicable even in payment of compensation in No Fault Liability cases. To clarify the position, a suitable provision has been made to the fact that in no-fault-liability cases, no such defence is available to the insurer.
- (7) The existing Act does not specifically provide that the insurer should be given notice before commencement of proceedings in the claims tribunals. It is necessary that insurer should be provided an opportunity to defend the claim. The provision is accordingly made that before commencement of any proceedings in the claim tribunals, due notice should be given to the insurer.
- (8) Under the existing provisions, an application for transfer of motor vehicle can be made within 30 days from the date of sale of the vehicle to record the fact of transfer in the Registration Certificate. In the case of insurance policy, it is not so and the transfer of insurance is done only from the date of filing of transfer application. This has created a situation where there will not be any insurance cover for a certain period. Various courts have held that there must be provision for automatic transfer of insurance, on transfer of ownership of motor vehicle. The existing provision has suitably been modified.
- (9) In case of an accident resulting in death or grievous injuries to third party, the particulars such as insurance policy number, the division and office which have issued the policy, the name and address of the vehicle owner, the name and address of the driver, driving licence particulars etc. are required to be furnished. For want of these particulars delay occurs in filing compensation claims to avoid such a contingency, a suitable provision is made that these particulars/documents should be produced before investigating officer within 24 hours.
- (10) Though the provision has been made for automatic transfer of insurance certificate alongwith transfer of ownership of motor vehicles, additional provision is made that a transferor or transferee should intimate the insurance company about the transfer having been recorded in registration certificate so that the insurance company corrects their records and is in the know of effectiveness of the policy, from such a date.
- (11) The scheme of payment of Solatium/compensation is presently administered by Solatium Fund Authority and the solatium is paid from the fund created by the Government to the victims/legal heirs of the deceased in Hit-and-Run motor accidents. The Solatium is one of the three types of compensation payable in accident cases. The other two types are (a) compensation under No-Fault-Liability and (b) compensation on proof-of-fault basis. Thus in view of the fact that Solatium is one of the types of compensation and that the major contributor to the existing fund also is the General Insurance Corporations/Companies, separate institutional apparatus to deal with solatium compensation is not considered necessary. It is proposed that GIC itself should earmark special fund for solatium cases and administer the same.
- (12) For claiming compensation, the claimant is required to file an application before the claims tribunal but there have been numerous instances that due to ignorance, some parties fails to file compensation application. A new provision has been made that the Police Officer investigating accident case should file a copy of the FIR before the Tribunal having jurisdiction and the tribunal has been given discretion to treat such a copy of FOR as an application for claims.
- (13) The existing provision requires that a Police Officer investigating the case shall give all information relating to the accident to the victims to claim compensation. As this information is always found to be incomplete the existing provisions has been modified that information should be in a form which contains all the necessary details for filing compensation. A suitable form has been proposed.

- (14) Existing Section 110 provides that in respect of damage to property exceeding Rs. 2000 the claimant may move a civil court for adjudication. After the establishment of the claims tribunal, such an option is not necessary. Since there is a change of two different tribunals/Courts, adjudicating two different claims, the provision relating to filing claims in Civil Courts has been deleted. Law Commission has also made recommendation to this effect.
- (15) Existing provision gives powers to the State Government to regulate the distribution of business among the different tribunals. Law Commission has recommended the power of distributing business should be vested in the High Court. Recommendation of the Law Commission may be accepted. Suitable modification has been made.
- (16) A form of application for filing compensation case has been prescribed under the Act. It has been observed that parties do contest the claims before the tribunals even on the ground that the form has not been filled properly. To avoid such litigation, a provision has been amended that application may be made "according to such form", instead of "in such form".
- (17) Application claiming compensation is required to be submitted to the Tribunal within six months. The power to condone the delay rest with the tribunal. Instances have been there to condone delay of many years. It is necessary that claim application is submitted within a reasonable time. Hence the maximum period for filing claims including the time that can be condoned by the tribunal has been fixed as 12 months.
- (18) At present there is no time limit for delivering copies of award by the Tribunal to the parties concerned. As a result of which the compensation is not paid to the victims on the plea of non-receipt of awards. A new provision is made requiring tribunals to furnish copies in 15 days of the date of the award so that the insurance company as well as other concerned parties make the payment expeditiously.
- (19) There is no provision now fixing the time limit within which the amount of award is to be deposited with tribunal for further payment to the beneficiaries. A time limit of 30 days has been fixed and provided for.
- (20) There have been numerous instances where insurer resorts to dilatory tactics to delay payment of compensation by filing the appeal to the High Court and on filing such appeals, the amount of award does not get deposited, with a result that the victims of accident are left high and dry. It is, therefore, provided that entertaining of an appeal

by the Superior Court will be conditional to deposit with the tribunal 50 per cent of the amount awarded.

- (21) The present provisions enable filing of an appeal wherever the amount awarded by the tribunal crosses the figures of Rs. 2000. This has resulted in numerous cases being filed in the High Courts. Rupee value also has come down. The new proposed provision is that only the cases where awarded-amount is Rs. 10,000 and above may qualify for appeal to the High Courts.

Punishment, Fines and Penalties for Violation

1. According to the present provision, the Conductor has the responsibility to issue ticket for the fare tendered. The responsibility of getting the ticket is cast on the passenger. In some quarters, a view is held that Conductor has no responsibility to 'demand' the passenger to take the ticket; which is not the correct thing. To obviate scope for such interpretation, a provision has been made that it is responsibility of the conductor to demand the taking of ticket by the passenger and the failure to do so is treated as an offence.

2. The offence of non-issue of ticket in a bus and traveling without ticket in a bus have been made compoundable under Section 127(B).

3. Since the punishment of imprisonment is called for only in serious offences such as theft of vehicle, motor accident, the provision of imprisonment has been deleted for the following offences, which are considered as not so serious as to warrant imprisonment :—

- (a) Refusal to give information (Section 113).
 - (b) Allowing un-authorised persons to drive vehicles (Section 113-A).
 - (c) Using vehicles without registration or permit. (Section 123).
 - (d) Acting as agent or canvasser without obtaining a licence. (Section 123-A).
 - (e) Driving un-insured vehicles. (Section 125).
4. Amount of fine for giving false information has been raised from Rs. 500 to Rs. 1000.
5. A new provision specifying "Drag Racing" as an offence has been included, and fine has been fixed as Rs. 300.
6. A new provision that it is an offence to use a vehicle not conforming to road safety standard, noise and air-pollution standards and it has been made punishable with a maximum fine of Rs. 2000.
7. Under Section 123, the amount of fine for using a vehicle without registration or permit has been raised to Rs. 5000 from Rs. 3000.

8. Under Section 123-A, Amount of fine for acting as agent or canvasser without proper licence has been raised to 5000 from the present Rs. 2000.

9. A new provision has been made specifying it as an offence if a driver of a lorry refuses to take his vehicle to the weigh-bridge for weighment and a fine has been laid down as Rs 300.

10. Hi-jacking a motor vehicle has been made as an offence and a fine of Rs. 1000 has been fixed.

11. A provision has been made to levy a penalty on hourly basis on owner of vehicle, who leaves the vehicle on the road for unduly long time, hampering the free flow of traffic.

12. Section 129-A has been amended to include that a vehicle driven by a person without having proper driving licence can be impounded, by Enforcement Authority.

13. In order to ensure that there is no possibility of misuse of powers and consequent harassment to the operators of motor vehicles, on the roads, a new section has been introduced that the powers conferred under the Motor Vehicles Act should be exercised only by responsible Police Officers not below the rank of Sub-Inspector of Police.

14. According to the present provision, when the summons is received from the Court in respect of any traffic offence, one is required to appear before the Court even if he wants to plead guilty. By the new provision now proposed, it has been made possible that where a person decides to plead guilty, he need not appear in the Court to do so and instead he may plead guilty by a communication through post and remit the amount to the Court as may be specified by the court in the summons.

15. A new provision has been made that the State Government should constitute Special Courts to try traffic offences. Regular Courts which are already

overburdened and have to deal with all types of cases are unable to dispose of traffic cases as expeditiously as it should be. And the delay in disposal of traffic cases loses the entire significance in as much as that the violator develops disregard for road discipline.

Miscellaneous

1. Under the rule-making powers, State Governments do make rules and issue notifications therefor. The Central Government is required to keep itself aware of these rules. A new provision under Section 133 has been made making it obligatory on the part of the State Government to send copies of the rules and their amendments to the Central Government.

2. Since road safety is an important aspect from the point of view of road users, it is felt that Motor Vehicles Inspector who certifies the fitness of the vehicle, should be qualified to hold the post. The provision has been made that no person who does not possess either a diploma or degree in automobile mechanical engineering should be appointed as a Motor Vehicles Inspector.

3. Enabling provision has been made for the constitution of National and State Road Safety Councils and District-level Road Safety Committees to discharge the functions of formulating policies and programmes of road safety and their implementation.

NOTE—As a result of comprehensive review of the provisions of the M.V. Act 1939, the changes suggested have been numerous, which involve additions of new provisions deletion of certain provisions, updating and modification in a large number of cases. However, in the Annexure that follows which give the draft of the proposed Revised Act, an attempt has been made to retain the identity of certain important sections in the Act, since these sections are commonly referred to by the those in the transport field.

ANNEXURE

**DRAFT OF THE PROPOSED REVISED MOTOR
VEHICLES ACT**



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CHAPTER I

REASON AND JUSTIFICATION FOR THE PROPOSED CHANGES

PRELIMINARY

1. SHORT TITLE, EXTENT AND COMMENCEMENT :—

- (1) This act may be called the Motor Vehicles Act, 1986.
- (2) It extends to the Whole of India.

2. DEFINITIONS

In this Act unless there is anything repugnant in the subject or context.

(1) Ambulance

means ■ motor vehicle specially designed constructed or modified and equipped and intended to be used for emergency transportation of person who are sick, injured, wounded or otherwise incapacitated or helpless, including transportation of the dead.

Ambulance van is not new to Indian Roads. Though they are registered as "ambulance", they do not find a place in the chapter of definitions. It is since included.

(2) Animal Ambulance

means ■ Ambulance intended to be used for the emergency transportation of sick, injured, wounded or otherwise incapacitated animals.

A distinction ■ made between the 2 classes of Ambulance.

(3) Auto-rickshaw

means a motor vehicle having three wheels and used for the carriage of not more than three passengers.

A new definition. This vehicle serves the common man all over the country as a contract carriage, but the term does not find a place under 'Definitions'. Hence need for its inclusion.

(4) Authorised Emergency Vehicle

means emergency vehicles of municipal departments or public service corporations as are designated or authorised by appropriate authorities, police vehicles, vehicles of the Fire service Deptt. and ambulance.

A new provision.

(5) Area

In relation to any provision of this Act, means such area of motorable roads as the State Government may have specified by notification in the official Gazette.

A slight modification to the existing definition is proposed. A motor vehicle can be run only on roads and it cannot normally be operated in an area where there are no motorable roads. This aspect is sought to be put forth in the definition by including the words "of motorable roads" in the existing definition.

(6) Articulated Vehicle

means a Prime Mover to which a semi-trailer is attached in such a manner that a part of the semi trailer is superimposed on, and a part of the weight of the semi-trailer is borne by, the Prime Mover.

The existing definition is sought to be slightly modified since the existing definition does not convey the correct description of the term. The words "Prime Mover" and "Semi-Trailer" are substituted for the words "Tractor" and "Trailer". A reading of the definitions 'Tractor' and 'Trailer' "Prime Mover" and Semi-Trailer will justify the need for this modification.

(7) Axle Weight

Means in relation to an axle of a vehicle the total weight transmitted by the several wheels attached to that axle to the surface whereon the vehicle rests.

No change from the existing definition.

(8) *Attendant in relating to a goods vehicle*

Means a person assisting the driver in maintenance of vehicle and delivery of goods. Attendant in relation to contract carriage other than motor cab means a person who acts as a guide to the tourist passengers in the vehicle and also assist driver in maintenance of vehicle.

This is a new definition. All goods vehicle carry a person besides the driver who is known as cleaner. As a cleaner is a must to assist the driver in the course of his duties, it is proposed to introduce a new definition designating the cleaner as Attendant.

Similarly all Tourist coaches carry a person other than the driver to act as a guide to the tourist passengers and to explain the places of importance etc. By this definition it is proposed to recognise the presence of such a person.

(9) *Camping trailer*

Means a trailer, not used for transport of goods, constructed with partial side walls which folds for towing and unfolds to provide temporary living accommodation for recreational camping and tourist purposes.

A new definition. Such tourist purpose vehicles are used in foreign countries, and are also expected to come in great use in this country, particularly for visits to tourist spots in Himalayas and similar other places. The definition is proposed to be added for appropriate registration purpose.

(10) *Camper's van*

Means a motor vehicle designed or permanently converted to provide living portion with direct access through walk to the living part of the vehicle from the driver's seat, and used for recreational, camping or travel purposes.

A new definition. Justification for camping Trailer holds goods for Camper's Van.

(11) *Certificate of registration*

Means the certificate issued by a competent authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter III.

No change in the existing definition.

(12) *Conductor*

In relation to a stage carriage, means a person engaged in demanding and collecting fares from passengers, regulating their entrance into or exit from, the stage carriage and performing such other functions as may be prescribed.

No change in the existing definition except word "demanding" included now to make it more clear that it is the duty of the conductor to make every passenger get a ticket. The present definition makes only the passenger responsible but this amendment makes both of them responsible.

(13) *Conductor's licence*

Means the authorisation issued by the Employer under Chapter II authorising the person specified therein to act as a conductor.

The existing definition is modified in view of the deletion of Chapter IIA. Provision is made in Chapter II empowering the Employer to authorise his employee to act as a conductor.

(14) *Contract carriage*

Means a motor vehicle which carries a passenger for hire or reward under a contract expressed or implied, for the use of the vehicle as a whole or for a fixed or agreed rate or sum—

- (i) on a time basis whether or not with reference to any route or distance or
- (ii) from one point to another and in either case without stopping to pick up, set down along the line of the route passengers not included in the contract, and includes a motor cab, taxi-cab.

The existing definition is modified only in respect of sub-clause (ii). A new type of contract carriage known as "Maxi Cab" has been introduced and that has been included in sub-clause (ii). Further the words "notwithstanding that the passengers may pay separate fares" occurring at the end of the existing definitions have been removed and brought under the definition of Motor Cab as this privilege is sought to be given only to motor cabs.

(15) *Commission*

Means the Inter-State Transport Commission constituted under Section 63-A.

This definition is to be deleted since Section 63-A in relation to Inter-State Transport Commission is proposed to be deleted. The ISTC has by and large remained non-functional.

(16) *Dealer*

Means every person engaged in the business of buying selling or exchanging motor vehicles and who has an established place of business for such purpose in the State and includes a person who is engaged in the manufacturing motor vehicles or in building bodies for attachment to chassis or a hypothecatee/hire purchase organisations leasing companies engaged in financing the acquisition of motor vehicles or repairers.

The existing definition does not convey the inherent meaning of Dealer. This has been brought out in clear terms. Since the financial institutions in the course of their business come to possess the vehicles owing to default in the terms of the agreement of Hire Purchase etc. and such vehicles are sold to other prospective purchasers, these institutions have also been included.

(17) *Driver*

Driver includes, where a separate person acts as steersman of a motor vehicle that person engaged in the driving of the vehicle.

No change in the existing definition.

(18) Driving licence

Means the document issued by a competent authority under Chapter II authorising the person specified therein to drive a motor vehicle or a motor vehicle of any specified class or description.

Existing definition.

(19) Dumper

Means of self propelled goods vehicle having an open cargo body designed to transport and dump or spread material.

This is now not defined. It is now done for clarity.

(20) Fares

Includes sums payable for a season ticket or in respect of the hire of a contract carriage.

Existing definition.

(21) Goods carriage or goods carrier

Means a transport vehicle which carries any class of goods for another person at any time and in any place for hire or reward whether in pursuance of the terms of a contract or agreement or otherwise and including carriage of goods in connection with a trade or business carried on by the owner of the vehicle and also goods of the owner of the vehicle.

A new definition. Since it is proposed to remove separate categorization of permits for "private-carriers" and replace such carriers by a common term known as "Goods Carrier" suitable definition of this term has been put.

(22) Goods

Includes live-stock, and anything other than equipment ordinarily used with the vehicle carried by a vehicle except living person, but does not include luggage or personal effects carried in a motor car or in a trailer attached to a motor car or the personal luggage of passengers travelling in the vehicle.

No change in the existing definition.

(23) Goods Vehicle

Means any motor vehicle constructed or adopted for use for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.

Existing definition has been slightly changed by deleting the words "solely or in addition to passengers", since the goods vehicle is constructed basically for transportation of goods and not the passengers and carrying of passengers in goods vehicles is dangerous.

(24) House Trailer

(a) Means a trailer or semi-trailer equipped and used for temporary living quarters for camping or tourist purposes transportation of freight, goods, wares and merchandise and the like.

A new provision. Remarks against camping trailer will hold good.

(25) Heavy Goods Vehicle

Means any goods vehicle the gross vehicle weight of which exceeds 12,000 kilograms or a tractor/prime mover or road roller the unladen weight of which exceeds 12,000 kilograms.

In the existing definition for "11,000 kilograms", "12,000 kilograms has been substituted in keeping with the normal international norms. Since the Rollers" are not found included in any of the existing definition, this type of vehicle is also included.

(26) Heavy Passenger Motor Vehicle

Means any public service vehicle or private service vehicle or omni bus the gross vehicle weight of any of which exceeds 12,000 kilograms, or a motor car the unladen weight of which exceeds 12,000 kilograms.

The existing definition has been modified to cover "Private Service Vehicle" such as those used by various establishment to transport their staff.

(27) Invalid Carriage

Means a motor vehicle specially designed and constructed, and not merely adapted, for the use of a physically handicapped person and used solely by or for such a person.

In the present definition a limit of 300 kgs. of unladen weight is prescribed to make a vehicle eligible to be classified as invalid carriage. This has been found to be unduly restrictive as it does not cover cars constructed and used by and for physically handicapped. In invalid carriages irrespective of their unladen weight, are proposed to be included.

(28) Lease

Means a written document vesting exclusive possession, use, control and responsibility of the lessee during the periods the vehicle is operated by or for the lessee for a specific period of time.

A new provision. At present the Act provides only for hire purchase agreement and hypothecation agreement. There is no provision for leasing of motor vehicles. Such a system is prevalent in India also. The leasing is in vogue for other items. This provisions seeks to make leasing possible.

(29) Licensing Authority

Means an authority empowered to grant licences, appointed by the State Government by rule made under Sec. 21.

(30) Light Motor Vehicle

Means a transport vehicle or omni bus, the gross vehicle weight of which does not exceed 6000 kilograms or motor car or Prime Mover/tractors road-roller the unladen weight of which does not exceed 3000 kilograms.

(31) Manufacturer

Means every person engaged in the business of manufacturing and assembling motor vehicles, or engine and driveline components for motor vehicles.

(32) Medium Goods Vehicle

Means any goods vehicle, other than a light motor vehicle and heavy goods vehicle.

(33) Medium Passenger Motor Vehicle.

Means any public service vehicle, Private Service Vehicle other than a motor cycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle.

(34) Motor Cab

Means any motor vehicle constructed, adapted or used to carry not more than six passengers for hire or reward, and where passengers may pay separate fares.

(35) Maxi Cab

Means any motor vehicle constructed, adapted, or used to carry not less than seven passengers but not more than twelve passengers for hire or reward.

(36) Motor Car

Means any motor vehicle other than a transport vehicle, omni bus road-roller, tractor, Prime Mover, Motor cycle or invalid carriage.

(37) Motor Cycle

Motor Cycle means a two wheeled motor vehicle and includes a motor driven cycle, motor-scooters, motorized pedal cycle such as moped, auto cycle, inclusive of detachable side car having an extra wheel and also includes—

- (i) Motor-cycles without gears.
- (ii) Motor-cycles with gear operated by hand.
- (iii) Motor-cycles with gears operated by foot.

(38) Motor Vehicle

Means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer, but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a low powered two-wheeler or three-wheeler fitted with engine capacity of not exceeding 35 cc.

The provision relating to the issue of Conductor's licence by the licensing authority have been deleted since it is proposed that the Employer could be empowered to authorise his employee to act as a Conductor and shall be responsible for all his acts. Hence the words "under Section 21-J" stands deleted.

It has been represented through Ministry of Industry that the correct way of defining Heavy/Medium and Light Motor vehicles should be uniformly expressed in terms of GVW 12,000 kgs. and beyond, 6000 to 12,000 kgs. and upto 6000 kgs. respectively. This is said to be normal international norms.

Road Rollers earlier excluded are not proposed to be kept outside since driving licences for the same are also considered necessary.

A new provision.

The terms "Vehicle manufacturers" has not been earlier defined. Its inclusion is necessary for clarity.

The existing definition has been retained after deleting the words "Road Roller". Road Rollers have now been brought under the categories of Light, Medium or Heavy Vehicles.

No change in the existing definition, except the word "Private Service Vehicle" is added.

To the existing definition, the words "where the passengers may pay separate fares" have been added at the end. The remarks against the definition "Contract Carriage" may also be seen.

New term defined to cover category of passenger vehicles which are neither the usual motor cabs/taxis nor the standard size but somewhere in between as an enlarged taxi.

No change in the existing definition.

The existing definition has been amplified so as to bring into its fold similar types of 2 wheelers now running on the roads. It was thought that motor cycles could be defined in terms of engine capacity expressed in CCs but then practical problems such as motor-cycle with 50cc can be with gear and without gears operated differently either by foot or hand, and the same category of Motor Cycle such as scooter having a wide range of engine capacities.

Existing provision slightly amplified. The vehicles with engine capacity of not exceeding 35cc have been proposed to be taken out of the purview of the definition in the Act in view of the fact that these low-powered vehicles are in the nature of ordinary cycle, with no possibility of high speed operation and cause of any road safety hazard.

(39) Owner

Means a person in whose name a motor vehicle stands registered under this Act and means where the person in possession of a motor vehicle is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject matter of a hire purchase agreement or lease agreement, the person in possession of the vehicle under that agreement.

The existing definition is not exhaustive. In the near future leasing companies may come forward with proposal for lease of motor vehicle as in foreign countries. The owner of the vehicle as is known today is the person whose name is noted in the registration certificate as the registered owner of the vehicle. The amplified definition meets the needs.

(40) Omni Bus

Means any motor vehicle constructed or adapted to carry more than six persons excluding the driver.

Existing definition. The prefix "Omni" indicates the umbrella type coverage of all types of vehicles carrying persons. The word is retained as it is useful for indicating category of vehicles at the time of presentation for registration of vehicle, and later on reclassified according to the nature of permit obtained for plying.

(41) Permit

Means the document issued by the State or Regional Transport Authority or any prescribed authority, authorising the use of a motor vehicle as a contract carriage, or stage carriage, or a goods carrier or a private service vehicle or as a transport vehicle.

From the existing definition the word "Commission" has been deleted, since the provisions relating to Inter State Transport Commissions have been deleted from the Act. Instead to meet any future contingency of such a Central Organisation, general provision of a "prescribed authority" is included. The class of vehicles called "Private Service Vehicle" is proposed to be brought within the permit control.

(42) Prescribed

Means prescribed by rules made under this Act.

No change in the existing provision.

(43) Public Place

Means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage.

No change in the existing provision.

Private Carrier.

The distinction between "Private Carrier" and "Public Carrier" has been mainly for the permit purposes. In view of the proposal to abolish the distinction in Chapter IV and combining these two categories in one to be known as "goods carrier", existing definition deleted.

Public Carrier.

(44) Private Service Vehicle

Means any motor vehicle constructed or adapted to carry more than six persons excluding driver and ordinarily used by or on behalf of owner of such vehicle for the purpose of carrying persons for or in connection with his trade or business otherwise than for hire or reward but does not include a motor vehicle used for public purposes.

This is a new provision. These motor vehicles are used by factories as staff bus, and have already been brought under permit control in many of the States by making rules under the provisions of sub-section (4) of section 42. Hence there is need to define the vehicle.

(45) Public Service Vehicle

Means any motor vehicle used or adapted to be used for the carriage of passenger for hire or reward, and includes a motor cab, contract carriage, and stage carriage.

No change in the existing provision.

(46) Prime Mover

Means a motor vehicle designed and used primarily for drawing other vehicles and not so constructed to carry a load other than a part of the weight of the vehicle and load as drawn.

This is a new definition. This is a tractor type unit and used in combination with semi-trailer known as articulated vehicle. This definition is included to differentiate it from a tractor.

(47) Physically handicapped Persons

Means every person who has permanently lost the use of a leg or both legs or an arm or both arms or any combination thereof or any person who is so severely disabled as to be unable to move without the aid of crutches or a wheelchair.

This is a new definition. There is a definition for invalid carriage in this Act. As these carriages are for the use of the physically handicapped, a corresponding term of physically handicapped person.

(48) Principal place of Business

Means the place where any person transacts his principal business, or where he makes up and approves his pay roll, maintains a central file of records and maintains his principal executive offices. In the event that not all of these functions are performed in one place, then that place where a majority of such functions are performed in one place, then that place where such person does in fact principally transact and control his business affairs.

This is a new provision. Section 45 speaks of principal place of business or residence. Hence there is need for defining the term.

(49) Registered Axle Weight

Means in respect of the axle of any vehicle, the axle weight certified and registered by the registering authority as permissible for that axle.

No change in the existing provision.

(50) Registered Laden Weight or Gross Vehicle Weight

Means in respect of any vehicle the total weight of the vehicle load certified and registered by the registering authority as permissible for that vehicle.

Existing provision with addition of the words "or gross vehicle weight" as such a term is also commonly used by vehicle manufacturers to denote Registered Laden Weight.

(51) Registering Authority

Means an authority empowered to register motor vehicles under Chapter III.

No change in the existing definition.

(52) Route

Means a line of travel which specifies the highway or other roads which may be traversed by a motor vehicle between one terminus and another.

In the existing definition the words "or other roads" have been included to make the definition more clear. In India we have different categories such as national highway, state highway, district roads, etc.,

(53) Rebuilt Vehicle

Existing definition is deleted. It is felt that this type of vehicle need not be specially introduced since the basic purpose of allowing alterations in the vehicle is taken care of under section 32. The recognition of a completely rebuilt vehicle has dangerous implications since there may be occasions when vehicles are stolen, dismantled and rebuilt for bringing on road. Further, when new vehicles are now to be subjected to safety standards and certification of prototypes by recognised institutions, permitting such rebuilt vehicle will be a retrograde step for road transport. From the point of diesel consumption and pollution also, such vehicles cannot be recommended.

(54) Semi Trailer

Means a trailer drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the drawing vehicle.

This is a new provision. At present there is only one definition for "trailer" in the Act. Since there are two types of trailers, namely trailers and semi-trailer, which have separate designs and characteristics, two separate definitions are given,

(55) School/College Bus

Mean a motor vehicle owned by the educational institutions and used for the purpose of transporting students and staff of the institution in connection with any activity of such institution.

This is a new definition. As most of the educational institutions are owning buses and as section 42 exempts only buses of such of these institutions which are recognised by the Government, it has become necessary to define this vehicle.

(56) Spare Bus or Reserve Vehicle

Means a stage carriage used as a replacement bus in place of route buses in the event of break-down of the route bus.

This is a new provision. Under Section 48 maintenance of reserve vehicles commonly known as spare bus is one of the conditions attached to stage carriage permits. It is therefore necessary to have it defined.

(57) Stage Carriage

Stage carriage means a motor vehicle carrying or adapted to carry more than six persons excluding the driver which carries passengers for hire or reward at separate fares paid by or for individual passengers either for the whole journey or for stages of the journey.

Several small buses have been introduced in rural and urban areas with lesser seating capacity.

In common practice small buses have come to be known as Mini Buses and the others as Buses. The "explanation" is added to the existing definition for more clarity.

Explanation

1. Bus in relation to a stage carriage means the vehicle that is permitted to carry more than twentyfour passengers.

2. Mini Bus in relation to a stage carriage means the vehicle that is permitted to carry more than six and less than twentyfive passengers.

(58) Trackless Trolley Coach

Means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

This is a new definition. In the ever expanding transport system provision has to be made to define such further mode of transport.

(58) Trailer

Means any motor vehicle without motive power in operation drawn or intended to be drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle and does not include a side car.

The existing definition has been amplified as a new definition is introduced to denote a semi-trailer which differ from the Trailer defined.

(60) Tow Truck

Means a motor vehicle designed or altered and equipped for and used to push, tow or draw disabled vehicles by means of crane, hoist tow bar tow line or auxiliary axles and to render assistance to disabled vehicles.

This is a new definition. Today, for want of a suitable provisions, such vehicles are now classified as goods vehicle. This new definition should help to identify the use of such vehicles.

(61) Transport Vehicle

Means a public service vehicle, or goods vehicle, a school or college bus or private service vehicle.

To the existing provisions the school buses and private service vehicles are added since they are also basically the transport vehicles, where fitness control and operations through special permits are important.

(62) Tourist Vehicle

Means a contract carriage constructed or adapted or equipped and maintained in accordance with such specifications as the Central Government may, by notification in the official Gazette, specify in this behalf, and chartered for the purposes of going on pilgrimage, excursion, tour to visit places of tourist importance or attending gathering of social, religious, political or educational nature, and the like.

The existing definition does not bring forth the actual purpose for which these vehicles are intended to be used. Tourist related purposes have been clearly brought out by amplifying the definition.

(63) Tractor

Means a motor vehicle designed and used for drawing other vehicles and not so constructed for carrying any load (other than the equipment used for the purpose of propulsion) therein either independently or any part of the weight of a vehicle or load so drawn.

The existing definition has been modified slightly so as to make it distinctively different from the newly introduced definition of "Prime Mover".

(64) Tandem Axle

Means any group of two or more axles, any of which may be powered and or steering, whose extreme centres are spaced more than 40 inches (1016 mms) apart, and which are attached one behind the other to the same vehicle and associated through a mechanism designed to provide a specific relationship between their leading.

There is no existing provision for this. It is now defined for clarity.

(65) Traffic Signs

Includes all signals, warning sign posts, direction posts, or other devices and road markings for the information, guidance or direction of drivers of motor vehicles.

Existing provision. But the words "road markings" have been included for clarity.

(66) Unladen Weight

Means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant and where alternative parts or bodies are used the unladen weight of the vehicle with the heaviest such alternative part or body.

Existing provision.

(67) Weight

Means the total weight transmitted for the time being by the wheels of a vehicle to the surface on which the vehicle rests.

Existing provision.

Explanatory Note

"Gender"—When used in this Act, words importing the masculine may be applied to females and vice-versa.

This is a new provision. In some provisions in this Act, the word "he" is used and it is meant to include the feminine gender also. This definition will make the position clear.



CHAPTER II

REASON AND JUSTIFICATION FOR THE PROPOSED CHANGES

(3) LICENSING OF DRIVERS OF MOTOR VEHICLES : NECESSARY FOR DRIVING LICENCE

1. No person shall drive a motor vehicle in any public or in any other place, unless he holds and carries with him an effective driving licence issued to himself authorising him to drive the vehicle and no owner or person in-charge of a motor vehicle shall allow the vehicle to be driven in a public place or in any other place by a person who does not hold and carry with him an effective driving licence.

2. Notwithstanding anything contained in sub-section (1) a person who holds an effective driving licence authorising him to drive a motor car or a motor cycle may drive any motor cab of the class hired by him for his own use.

(4) RESTRICTIONS ON THE HOLDING OF DRIVING LICENCES

1. No person shall, while he holds any driving licence for the time being in force, hold any other driving licence except a driving licence issued in accordance with the provisions of Section 15 or a document authorising, in accordance with the rules under Section 92, the person specified therein to drive a motor vehicle.

4.2. What Persons should not be licensed as Drivers :

No Learners Licence or driving licence shall be granted or renewed :

(b) to any person who by reason of physical or mental disability would not be able to operate a motor vehicle with safety.

(c) to any person who is afflicted or has been afflicted with epilepsy unless such a person produces to the satisfaction of the licensing authority a certificate from a competent medical specialist to the effect that the driving of a motor vehicle by such a person would not be inimical to public safety.

(d) to any person who has not satisfied the provisions regarding the age limits for holding a driving licence under this act.

(e) to any person convicted for criminal assault, rape, murder theft burglary illicit traffic in drugs, looting, abduction or other serious crimes.

(f) to any person whose Driving licence was cancelled by any licensing authority.

(5) GRANT OF DRIVING LICENCE :

1. Subject the provision of Section 4, any person who has completed eighteen years of age and who is not for

(a) The existing provisions have been slightly modified by adding the words "for in any other place". Under this act it is incumbent on any one to get a motor vehicle registered whether for use in public place or in any other place as per Sec. 22. As such it is all the more necessary that in whichever place a motor vehicle is driven, the driver should have a driving licence. In the same analogy, these words are included.

(b) The words "carry with him" has been included after the word "holds". The intention is that the licence should be in physical possession of the driver when he drives. The existing word "hold" has been interpreted that it does not mean that the driver should carry. To make the provision beyond any doubt this addition has been made. The word "paid employee" has been deleted since every driving licence is required to have photograph of the licence holder affixed for identification. The word "transport vehicle" has also been deleted in view of the proposed Sec. 9.

This is the existing Sec 2(3). The word motor cycle has been added. In Goa motor cycles are granted contract carriage permit to carry one passenger in the pillian. This modified provision will enable the person hiring the vehicle, to drive it himself. The existing Sub Sec (2) of Sec 3 has been brought under rule making powers in sub clause (b) under sub section (2) of Section 21-B.

This is an existing provision under section 6. No change.

The existing Sub Sec (2) of Section 6 has been omitted since such usage would be impossible as every licence carry a photograph of the driver.

The existing sub sec (3) is also omitted since it is redundant in view of the provisions of the proposed Sec 11.

These are existing provisions under Sub Sec (5) of Sec 7 but slightly modified.

A new provision,

The age limit is the existing provision under Sec. 4.

the time being disqualified for holding or obtaining a driving licence and who is not for the time being the holder of an effective driving licence, may apply for the issue of a licence, to drive as a learner in form L.Lr.A. as may be specified by the Central Government by notification in the official Gazette accompanied by three clear copies of his/her recent photograph which should be of the size of 5 centimeters by 6 and a quarter centimeters a certificate of proof of age, and the prescribed fee to the Licensing Authority having jurisdiction in the area.

- (i) In which he ordinarily resides or carries on business, or
- (ii) In which the school or establishment where he is receiving or has received instruction in driving a motor vehicle is situated. The application shall also be accompanied by ration card, or extract of voters list or such other documentary evidence to establish the correctness of the address given in the application.

Provided that any person who has completed sixteen years of age may apply for a licence to drive as learner, a Moped that does not involve shifting of gears.

2. The application from a person referred to in the proviso of sub section (1) shall be accompanied by a written consent of either parent of the applicant or in the case of the applicant whose parents are not alive, by applicant's guardian having custody of the applicant or in the event of no parent or guardian, by a responsible person.

3. Every applicant under sub-section (1) shall sit for a preliminary test oral or written conducted by the Licensing Authority or other prescribed authority on the basis of specified syllabus which shall include "Rules of the Road" as specified by Central Govt., Traffic rules, and First Aid and important provisions of Motor Vehicles Act as specified by the State Government. The payment of fee referred to in sub-section (1) shall entitle the applicant to not more than 3 attempts to pass the examination within a period of one year after the date of application.

4. Every applicant after passing the test referred to in sub-section (3) shall appear for a medical test before any one of the authorised medical officers in the panel approved by the Transport Deptt. in consultation with the Health Department of the State Government. No medical fitness certificate shall be issued to any applicant unless he passes to the satisfaction of the medical officer the medical test is approved by the Central Government.

4(a) Where any report is received from the Transport Department against any Medical Officer giving Medical fitness certificate by following unethical practice the Medical Council shall take departmental action against such medical officer, after giving the Medical Officer an opportunity to defend himself.

5. The Medical Fitness Certificate referred to in Sub Sec. (4) shall be in form C as may be specified by the Central Government by notification in the Official Gazette.

6. No licence to drive as a learner shall be issued to any applicant unless he passes to the satisfaction of the licensing authority the test referred to in sub section (3) and the medical fitness certificate referred to in sub section (5).

1. The learner's licence shall be valid for a period of six months and shall be renewable. It shall be effective throughout India.

Provided that sub section (3), (4) and (5) of section (5) shall not apply where the application is for a licence to drive as a learner for the purpose of adding another class of Motor vehicle to the existing driving licence.

Under existing Act the provision of Learners' Licence is not mentioned though it is now covered by rules made by the State. To make it more clear to the public, this Section has been amplified. "Certificate" of age as proof is a new provision.

These are provisions in the existing Sub Sec (1) of Sec. 7.

This is a new provision to avoid person giving fictitious address.

Many boys and girls are now riding these types of vehicles. Since driving these vehicles does not call for skill and any person who rides a bicycle can drive this vehicle, a reduced age limit is proposed.

This is a new provision. At present licenses to drive as a learner is issued without asking any question. As a road safety measure it is felt that unless he is fully conversant with rules of the road, he should not be given a licence and it will be the duty of Testing Authority to check this point thoroughly.

Though in the existing Act there is provision for a medical certificate; medical test has to be made more critical from the point of view of road safety. Medical Certificate is easily made available now. To safeguard against indiscriminate issue of such certificate a panel provision is now suggested for discriminatory action against erring doctors.

This is an existing provision under Sec. (3) of Sec. 7.

A new provision. This is considered a must in the interest of public safety as a person learning to drive a vehicle on the road should not be a potential hazard to road safety.

The existing Act does not contain these provisions though some of the State Govts. have made such stipulations. In order to have uniformity and the importance of "driver" as a key person, detailed provisions of operating a learner's licence are put in the main Act.

2. A learner's Licence shall entitle the holder while having the licence in his immediate possession to drive that class of motor vehicle in any public place or in any other place when accompanied by a licensed driver who holds and carry with him an effective licence for the said class of vehicle occupying a seat besides the driver.

Provided that a learners licence to drive a motor cycle shall entitle the holder to drive the vehicle during day light under the direct supervision of a person who holds an effective driving licence for the said class in his immediate possession.

3. *From and Contents of Learners Licence*

Every Learners Licence shall be in form LLR as may be specified by Central Government by a notification in the Official Gazette.

1. Any person who is medically found fit and who is the holder of an effective Learner's Licence shall undergo training for a period of not less than three months in driving in accordance with syllabus specified by the Central Government in any one of the driving schools recognised by the Licensing Authority.

2. No person shall be eligible for a driving certificate from any such school or establishment unless he/she has satisfactorily completed the course of training. The driving certificate shall contain the assessment about the skill of the trainee with a brief resume of his physical fitness, mental qualities and sense of responsibilities and shall be in the Form specified by the State Government.

8.1. Any person who is not otherwise dis-qualified under the provisions of this Act may apply for a regular driving licence in Form A as may be specified by the Central Government by notification in the official gazette to the Licensing Authority referred to in sub section (1) of section 5. The application shall be accompanied by an effective Learner's Licence the medical fitness certificate referred to in sub section (5) of Section 5 and the Driving Certificate referred to in sub section (2) of Section 7, three clear copies of the recent photographs of the applicant of the size of five centimeter by six and a quarter centimeter and such fee as the Central Government, may by rules made under this Act, specify.

8.2. The applicant shall present himself for a test of competence to drive before the prescribed authority on the date appointed by the Licensing Authority in a vehicle of the type to which the application refers.

3. Every applicant if he passes the test of competence as specified in the schedule that may be prescribed by the Central Government by notification in the Official Gazette to drive a vehicle of the type to which the application refers, to the satisfaction of the licensing authority and is not otherwise disqualified under the provisions of this Act shall be entitled for a driving licence and the licensing authority shall grant him a driving licence to drive such motor vehicle as the licensing authority may specify in the driving licence.

4. The driving licence issued under this Chapter shall be effective throughout India.

5. *From and Contents of Driving Licence*

Every driving licence except the driving licence issued under section 15 shall be in Form D as may be specified by the Central Government by notification in the Official Gazette in the form of a Book of the size six centimeter by seven centimeter.

1. No person shall drive a transport vehicle unless so authorised by the licensing authority in the driving licence and subject to the provisions of Sec. 15 no person under the age of twenty years shall drive a transport vehicle.

A new provision. The remarks for Sec 5 holds good.

This is a new provision. A minimum of three months training is considered necessary to bring out a good driver. On assessment a full-fledged driving licence could be considered.

This is an existing provision of Sub Sec (2) of Sec. 7.

Existing provisions of Sub Sec (7) of Sec. 7.

Existing provisions in sub Sec. (8) of Sec. 7.

Existing Sub Sec (1) of Sec. 9 Sub Sec. (3) of Sec. 9 is omitted since R.T.A. has nothing to do with licence.

Existing provisions of Sec. 8. There is no need to repeat the contents of the Form in this section and hence that portion is deleted. Since these licences are printed by the States, for the sake of uniformity its size and shape are prescribed.

This is an existing provision covered under sub sec (1) of Sec. 3 and sub sec 2 of Sec. 4.

10.1. If from the medical certificate referred to in sub sec (5) of Section 5 it appears to the licensing authority that the driving of a motor vehicle by the person is a source of danger to the public or passengers licensing authority shall refuse to issue the driving licence.

This is an existing provision under the proviso of sub-section (5) of section 7.

Provided that a driving licence limited to driving an invalid carriage may be issued to the applicant if the licensing authority is satisfied that he is fit to drive such a carriage.

10.2. The licensing authority shall not issue a driving licence to the applicant, if he had previously held a driving licence issued under this Act, unless it is satisfied that there is good reason for his inability to obtain a duplicate copy of his former licence.

Existing provision in sub-section (8) of section 7 (Proviso).

10.3. No driving licence shall be issued to any applicant unless he passes to the satisfaction of the licensing authority the test of competence to drive specified in sub sec (3) of section 8.

Existing provision in sub sec (6) of sec. 7.

Provided that where the application is for a licence to drive a motor cycle or a light motor vehicle the licensing authority shall exempt the applicant from the said test, and the provisions of sub sec (3) of sec 5, if the licensing authority is satisfied that

Existing provisions under the proviso to sub sec (b) of sec 7. second proviso has been omitted since it is not proposed to authorise AASI in view of establishment of Driver Training Schools.

(a) the applicant has previously held a licence to drive and the period between the date of expiry of that licence and date of such application does not exceed five years or

(b) that the applicant holds a driving licence issued by a competent authority of any country outside India or

(c) that the applicant holds a military driving licence or a certificate issued by a competent authority under section 15.

This is a new provision to enable a person holding a Military Driving licence.

Provided that such applicant shall not be exempted from the provisions of sub sec (4) of sec. 5

10.4. The application of a candidate who fails in the test of competence to drive shall be rejected for the reasons to be recorded in writing and the fact intimated to the applicant. He/She shall not appear for a re-test before expiry of a period of one month

This is a new provision. By giving reasons for rejection the applicant will be in a position to concentrate on his minus points and improve upon them before appearing for another test.

11.1. ADDITIONS TO DRIVING LICENCE

(a) No person shall be eligible to drive a Medium goods vehicle or Medium passenger Motor Vehicle unless he has practical experience in driving a light motor vehicle for a period of not less than one year.

(a & b) are new provisions requiring the drivers to have experience on light & Medium vehicles before operating higher-duty vehicles, keeping in view road safety aspects.

(b) No person shall be eligible to drive a Heavy Goods vehicle or Heavy Passenger Motor Vehicle unless he has actual experience in driving a Medium Motor Vehicle of that class for a period not less than one year or a light motor vehicle for a period not less than two years.

11.2 A person who passes the test in driving a heavy goods vehicle or a heavy passenger motor vehicle, shall be deemed also to have passed the test in driving any medium goods vehicle or any medium passenger motor vehicle, as the case may be.

Existing provisions under such clause (a) & (b) of sec. 7. The clause (c) is omitted as no person can straightway obtain a licence to drive medium motor vehicle under the proposed clause.

11.3. Subject to the condition in sub-section (1) any person holding a driving licence issued under this Chapter who is not for the time being disqualified for holding or obtaining a driving licence may apply in form AA, as may be specified by the Central Government by notification in the Official Gazette, to the licensing authority having jurisdiction in the area in which he ordinarily resides or carries on business, for the addition of another class of motor vehicle to the licence along with an effective Learner's Licence.

Existing provisions of sub sec (1) of sec 8-A.

11.4. The provisions of section 5 (except the provision requiring the application thereunder to be accompanied by three clear copies of a recent photograph of the applicant/ Medical examination and oral or written test) shall apply to an application under this section as if the application were for the grant of a licence under that section to drive the class of motor vehicle which the applicant desires to be added to his licence;

11.5. No fee other than a fee for the test of competence to drive shall be charged for an addition to a driving licence under this section.

12. CURRENCY OF DRIVING LICENCE :

A driving licence issued or renewed under this Act shall subject to the provisions contained in this Act as to the suspension and cancellation of driving licences and the disqualification of holders of driving licences, be effective without renewal for a period of five years only, from the date of the issue of the licence or, as the case may be, from the date with effect from which the licence is renewed under Section 13 and the driving licence shall be deemed to continue to be effective for a period of thirty days after the date of its expiry.

Provided that a driving licence issued or renewed to drive a transport vehicle shall be effective without renewal for a period of three years only.

Provided further, that if during the currency of a Driving Licence to drive only non-transport vehicles any class of transport vehicle is added to it then the validity of such licence, if exceeds three years, shall be restricted to three years.

13. RENEWAL OF DRIVING LICENCE :

An application for the renewal of a driving licence shall be made in form "B" as may be specified by the Central Government by notification in the Official Gazette along with three clear copies of the recent photograph of the applicant of the size of five centimeters by six and a quarter centimeter to the licensing authority in whose jurisdiction the applicant resides, and shall be accompanied with a medical certificate referred to in sub sec (5) of Section 5. The fee payable shall be the amount specified in the Rules made by the Central Government in this behalf. When the authority renewing the driving licence is not the authority which issued the driving licence it shall intimate the fact of renewal to the authority which issued the driving licence.

2. Any licensing authority may, on application made to it, renew a licence issued under the provisions of this act with effect from the date of its expiry.

Provided that in any case where the application for renewal of a licence is made more than thirty days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal.

Provided further that in case whether the application for the renewal of a licence is made more than thirty days after the date of its expiry the driving licence shall be renewed with effect from the date of its renewal.

Provided further that if the application is more than five years after the driving licence ceased to be effective, the licensing authority shall refuse to renew the driving licence unless the applicant satisfies the provisions of sub section(3) of sec 8, undergoes and passes to its satisfaction the test of competence to drive in the manner prescribed in that sub-section and produces medical certificate referred to under sub sec. (5) of sec. 5.

3. The licensing authority may require a driver to produce a medical certificate in Form C if it has reasonable ground to believe that the driver is medically unfit.

Existing provision of sub sec (2) of Sec. 8-A.

Existing provision of sub sec. (3) of Sec. 8-A.

Existing provisions of Sec. 10.

This is a new provision. This has been introduced to empower the licensing authorities to ensure that the three year validity of a licence does not get altered, as a result of subsequent addition of a class of transport vehicle in the licence to drive a non transport vehicle in compliance with the proviso to the proposed Sec. 12.

Requirement of medical certificate is now prescribed for all whether drivers of transport vehicle or non-transport vehicle. Existing provisions under Sec. 11 have been slightly modified. The first proviso to existing sub sec (3-A) of sec 11 has been omitted since every application has to be accompanied with prescribed fee.

Sub Sec. (3-B) has been omitted as in actual practice, verification of antecedents has become an impossibility. A new provision has been made for computerisation. If that materialises, there can be a real need for verification of antecedents, Sec. 11-A, has been omitted as it has become redundant, in view of the fact that every licence now carries a photograph.

Existing provision of Section 12.

14. Every application for a learning licence, on addition of a class of vehicle to a driving licence, renewal of licence or for a change of address or any other application made under this Chapter shall be accompanied by recorded evidence such as ration card, telephone bill, extract of voters list or such other evidence to the satisfaction of the Licensing Authority in support of the correctness of the address mentioned in the application.

15. DRIVING LICENCE TO DRIVE MOTOR VEHICLE UNDER THE EXCLUSIVE CONTROL OF THE DEFENCE DEPARTMENT OF THE CENTRAL GOVERNMENT.

1. The authority specified in part A of the First Schedule may grant driving licences valid throughout India to persons who have completed eighteen years of age to drive motor vehicles which are the property or for the time being under the exclusive control of the Defence department of the Central Government; and are used for Government purposes unconnected with Commercial enterprises.

2. A driving licence issued under this section shall specify the class or classes of vehicles which the holder is entitled to drive and the period for which he is entitled.

3. A driving licence issued under this section shall not entitle the holder to drive any motor vehicle which is the property or for the time being under the exclusive control of the Defence Department of the Central Government.

4. The authority issuing any driving licence under this section shall at the request of any State Government furnish such information respecting any person to whom a driving licence is issued as that Government may at any time require.

16. SUSPENSION AND CANCELLATION OF DRIVING LICENCE.

16.1. Any licensing authority for the reasons to be recorded in writing may cancel a driving licence or suspend it for such period as it thinks fit.

(a) If the licensing authority has reasonable ground to believe that the holder of driving licence has by virtue of any disease or disability become unfit to drive a motor vehicle;

(b) for any breach of the provisions of this Act and the rules made thereunder;

(c) if there is reason to believe that

(i) the holder was not entitled for the driving licence.

(ii) the holder has committed any fraud in making the application.

(iii) the holder has refused or neglected to submit for re-examination or re-action test referred to in sub-sec. (3) of Sec. 13 or sub-sec. (2) of sec. 16.

(iv) the holder is a habitual drunkard.

(v) the holder has been convicted for automobile theft, criminal assault, burglary, illicit traffic in drugs, illicit transport of goods, prohibited by any law rule and order, looting, abduction and other serious crimes which in the opinion of the licensing authority will be against public interest after giving an opportunity to the licence-holder to furnish his explanation.

Provided that no driving licence shall be cancelled unless an opportunity is given to the holder to be heard.

This is a new provision. This will help to keep a correct record and will also help to eliminate fictitious addresses.

Existing provision of Section 14.

Only the title of the section is changed to make the provision clear.

Provisions of sec. 15 and 16 are combined in this section giving the power to suspend or cancel the licence to the licensing authority.

These provisions have been elaborated to cover any violation of the Act or of the Rules made, thereunder with a view to ensure effective control from licensing authorities on the one hand and sense of responsibility on the part of the drivers and will help to reduce the incidence of traffic violation on the part of drivers.

The following are new provisions adding clause (a), (b), (ci), (cii), (ciii), (cv).

Provided further that no driving licence shall be suspended unless an opportunity is given to the holder to submit his explanation.

Upon the issue of any such order, the person affected shall forthwith surrender his driving licence to the Licensing Authority making the order, if the driving licence has not already been surrendered.

- (a) If the driving licence is a driving licence issued under this Act, endorse the suspension upon it and keep it until suspension period has expired;
- (b) If it is not a driving licence issued under this Act endorse the suspension in it and send it to the authority by which it was issued;
- (c) In the case of cancellation of the Driving Licence, the licensing authority shall cancel the licence under his seal and signature if it is a licence issued under this Act. Where the Authority suspending or cancelling the Driving Licence is not the authority which issued the Driving Licence it shall intimate the fact of cancellation or suspension to the licensing authority which issued that licence.

2. Re-action Test for drivers involved in major accidents.

Where a person by his driving a motor vehicle caused the death or grievous hurt to one or more persons he shall undergo a fresh test of competence to drive specified in sub section (3) of section 8 and also the medical examination specified in sub section (4) of Section 5. The licensing authority shall cancel the driving licence if after such test the person is found medically unfit or the person fails to pass the test of competence to drive.

3. Where a person fails in the test of competence to drive conducted in pursuance of a direction under sub sec (2) licensing authority shall make such enquiries as it deem fit and after such enquiries if the licensing authority has reason to believe that the testing authority on whose certificate of competence the licence was originally issued has certified the candidate by following unethical practice, report the matter to the appointing authority for departmental action.

4. Cancellation of Licence issued to minor.

The licensing authority shall cancel the Driving Licence of any minor under the age of 18 years in any of the following events :

- (a) Upon the verified written request of the person who consented to the application of such minor that such licence be cancelled;
- (b) Upon receipt of satisfactory evidence of the death of the person who consented to the application of such minor;
- (c) Upon receipt of satisfactory evidence that the person who consented to the application of a minor no longer has legal custody of such minor.

5. After such cancellation the Licensing Authority shall not issue a new licence for a period of 6 months after the date of cancellation.

17. APPEALS

Any person aggrieved by any order made by the Licensing authority or any prescribed authority under this Chapter may within thirty days of the receipt of the order appeal to the prescribed authority and such Appellate Authority shall give notice to the Licensing Authority and hear either party and make such enquiry into the matter as it think fit. An order made by the Appellate authority shall be final and shall be binding on the Licensing Authority.

This is a new provision. As road safety is an important factor, a provision is made for reaction test and cancellation of licence if the driver fails to satisfy the test.

This is a new provision making testing authorities accountable.

This is a new provision. Driving Licence to drive a moped has been proposed to be issued to minors on the basis of letters issued by their guardian. So provision is also made for cancellation of such licences under the circumstances provided in this section.

Existing provision under Ser. 13, has been amplified to bring under its scope all orders made by the Licensing Authority.

18. POWER OF COURT TO DISQUALIFY

1. Where a person is convicted of an offence under the provisions of section 87, section 89, 115, 116, 117, 120 and 123 of this Act, or of an offence in the commission of which a motor vehicle was used, the Court by which such person is convicted may declare the person to be disqualified, for holding any driving licence for such period as the Court may specify or cancel the driving licence.

2. A court shall not order the disqualification of an offender convicted for the first or second time of an offence punishable under Sec. 115.

3. If a driving licence is cancelled or suspended under this Section, the Court shall take the driving licence in its custody, endorse the cancellation or, as the case may be, suspension, thereon and send the driving licence so cancelled or endorsed to the authority by which the licence was issued or last renewed and such authority shall, on receipt of the licence, keep the licence in its custody and in the case of a suspended licence return the licence to the holder thereof after the expiry of the period of suspension on an application made by him for such return. Provided that no such licence shall be returned unless the holder thereof has, after the expiry of the period of suspension, undergone and passed, to the satisfaction of the licensing authority by which the licence was issued or last renewed, a fresh test of competence to drive specified in sub section (3) or Sec. 8.

Explanation

For the purpose of this section, "Court making the conviction" means the Court by which the final order of conviction is made. The Court to which an appeal lies from any conviction of an offence of the nature specified in sub-section (1) may set aside or vary any order by the Court below, and the Court to which appeal ordinarily lie from any Court may set aside or vary any order made by the Court, notwithstanding that no appeal lies against the conviction of connection with which such order was made.

4. Where the person referred to in sub-section (1) is acquitted or discharged, the Court competent to take cognizance of the offence referred to in sub-section (1) shall, on the application of the holder of the driving licence, cancel the endorsement thereon with regard to the suspension or cancellation as thereon with regard to the suspension or cancellation as the case may be of such driving licence and return the driving licence to the holder.

19. TRANSFER TO ENDORSEMENT AND ISSUE OF DRIVING LICENCE FREE FROM ENDORSEMENT

1. An endorsement on any driving licence shall be transferred to any new or duplicate driving licence obtained by the holder thereof until the holder becomes entitled under the provisions of this section to have a driving licence issued to him free from endorsement.

2. Where a driving licence is required to be endorsed and the driving licence is at the time not in the possession of the Court or authority by which the endorsement is to be made then—

- (a) If the person in respect of whom the endorsement is to be made is at the time the holder of a driving licence, he shall produce the driving licence to the Court or authority within five days, or such longer time as the Court or authority may fix or
- (b) if, not being then the holder of a driving licence, he subsequently obtains driving licence, he shall within five days after obtaining the driving licence produce it to the Court or authority; and if the driving licence is not produced within the time specified it shall on the expiration of such time be of no effect until it is produced for the purpose of endorsement.

Existing provision of Sec. 17 to 19 are incorporated in this new Section.

Existing provisions in Sec. 20.

3. A person whose driving licence has been endorsed shall, if during a continuous period of three years since the last endorsement was made no further order of endorsement has been made against him, be entitled on surrendering his driving licence and on payment of a fee of five rupees, to receive a new driving licence free from all endorsements. If the endorsement was only in respect of exceeding a speed limit, he shall be entitled to have a clear driving licence issued on the expiration of one year from the date of the order. Provided that in reckoning the said period of three years and one year, respectively, any period during which the said person was disqualified for holding or obtaining a driving licence shall be excluded.

20. DRIVING TRAINING SCHOOL

1. No person, firm, Association, partnership or corporation shall operate a Driver Training School or engage in the business of giving instructions for hire or for a fee in the driving of Motor Vehicle or in the preparation of an applicant for the examination conducted by the Licensing Authority unless a licence therefor has been issued by the Licensing Authority.

2. This section shall not apply to recognised educational institutions in which driving institutions are part of the curriculum or to employers giving instructions to their employees.

3. The licence or a certified copy of the licence provided by the Licensing Authority shall be exhibited conspicuously in the principal place of business of the Licensee and in each additional place of business, if any, maintained by such licensee.

4. The Motor Vehicle of the Driver Training School shall be equipped with dual control and also with a sign board visible from the front and the rear giving the full name and address of the Driver Training School, with letters of the height of not less than 5 cm.

21. AUTHORISING PERSONS TO ACT AS CONDUCTORS

1. No person shall act as a conductor of a stage carriage unless he holds an authorisation issued to him by his employer to act as such conductor and no person shall employ or permit any person who is not so authorised, to act as a conductor of a stage carriage.

2. Any person who has passed Xth Std. and who has completed eighteen years of age and who is not suffering from any disease or disability may be granted an authorisation to act as a conductor by an employer in such Form as may be prescribed by the State Government. The employer may withdraw the authorisation at any time for reasons to be recorded in writing.

3. The Licensing Authority may for the reasons to be recorded in writing may at any time cancel the authorisation issued by the employer if it has reason to believe that the conductor has misbehaved with passengers or violated any of the provisions of the rules made under this Chapter.

Provided that no authorisation shall be cancelled unless an opportunity has been given to the conductor to be heard.

21.A. A POWER OF CENTRAL GOVERNMENT TO MAKE RULES

The Central Government may, by notification in the Official Gazette, make rules to provide for—

- minimum educational qualifications of persons to whom licence to drive a motor vehicle or a transport vehicle is issued.
- the fee payable for the grant of Learners licence, driving licence and addition of a class of motor

This is a new provision. Even though existing Act empowers the State Governments to make rules for licensing of schools, the provisions has been not adequately acted upon. It is felt that the substantive provision in the Act would be significant from the point of taking active steps for establishment of schools by the States, schemes for accrediting private schools with sufficient expertise and other institutional mechanisms. A uniform approach by all States in this regard is of essence in view of the fact that the driving licence issued by Licensing Authority of any State is valid throughout the country.

Chapter II A has been proposed to be deleted. It is felt that the employer may issue this authorisation and the Licensing Authority may retain the power to cancel the authorisation besides the employer.

This provision is transferred from rule making powers of the State to Central Government for the purpose of uniformity.

Existing provision of Sec. 20A.

vehicle to a driving licence and issue of fresh licence under Section 13.

21B. POWER TO MAKE RULES

1. A State Government may make rules for the purpose of carrying into effect the provisions of the Chapter.

Existing provisions of Section 21.

2. Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the appointment, jurisdiction, control and function of licensing authorities and other prescribed authorities;
- (b) the conditions subject to which sub-section (1) of Sec. 3 shall not apply to persons receiving instructions in driving motor vehicle;
- (c) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such Fees; provided that no fees so fixed shall exceed two rupees;
- (d) the issue of duplicate licences to replace licences lost, destroyed, written up or mutilated, the replacement of photographs which have become absolute, or to persons whose driving licences have been surrendered and the fees to be charged therefor;
- (e) the badges and uniform to be worn by the conductors of stage carriages and drivers of transport vehicles and the fees to be paid in respect of badges;
- (f) the medical examination and testing of applicants for licences and of drivers and the fees to be charged therefor;
- (g) the exemption of prescribed persons, or prescribed classes of persons from payment of all or any portion of the fees payable under this Chapter;
- (h) granting by panel of doctors certificates referred under sub-section (5) of Sec. 5.
- (i) the communication of particulars of licences granted by one licensing authority to other licensing authorities;
- (j) the control of schools or establishment for the instruction of drivers of motor vehicles including the registration of such schools or establishments and the acceptance of driving certificates issued by such schools or establishments as qualifying the holder for applying for a regular driving licence and condition for grant of licences to Driver Training Schools.
- (k) Any other matter which is to be or may be prescribed.
 - (i) the educational qualification of the applicants to operate the driving training schools and also of the instructions employed by such schools.
 - (ii) the minimum equipment including motor vehicles necessary for imparting training to the candidates.
 - (iii) location of driving training school.
 - (iv) facility for office, class room, ventilation, lighting safety public health and sanitation.
 - (v) periodical inspection of motor vehicles used for driver training.
 - (vi) registers and records to be maintained.
 - (vii) penalties for violation of the conditions.
 - (viii) the form in which the authorisation to act as a conductor may be issued by an employer.
- (ix) the duties and functions of conductors and the conduct of person to whom authorisation to act as conductor may be issued.

A new provision in view of deletion of Chapter IIA.

CHAPTER III

REASON AND JUSTIFICATION FOR THE PROPOSED CHANGES

22. NECESSITY FOR REGISTRATION

1. No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with the provisions of this chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner.

2. A State Government may prescribe conditions subject to which sub-section (1) shall not apply to motor vehicles in the custody of the manufactures and Dealers before sales and the conditions governing the operation of such vehicles under Trade Certificate.

3. No trailer shall be registered under this chapter unless the design has been approved by any State Transport Authority of the State or Union Territory. Provided that this rule shall not apply to Trailers obtained through Military disposal.

The words "for the purpose of carrying passengers or goods" are deleted as it is felt that registration is a must for all categories of vehicles.

This is a new provision. Under the present law even driving vehicles for the purpose of registration to R.T.O. by a Dealer will be violation of the provision of Sec. 22. The new provision will give power to prescribe conditions governing the use of such vehicles.

This is a new provision. Trailers of different sizes & dimensions are manufactured locally to suit various needs including the needs of the Agriculturists. Their load carrying capacities are widely different. It has a bearing on road safety. In order to ensure that dimension of the trailers when brought on the road do not pose road-hazards, certain states have made rules stipulating that the designs of trailers be got approved prior to the manufacture.

23. REGISTRATION WHERE TO BE MADE

1. Subject to the provisions of section 24-A, 25 & 39 every owner of a motor vehicle shall cause the vehicle to be registered by the registering authority in whose jurisdiction the owner resides or has his principal place of business where the vehicle is normally kept, within Forty Eight hours after becoming the owner.

2. Every application for transfer of ownership, endorsement or cancellation of hire purchase agreement or hypothecation or lease, duplicate registration Certificate shall be made to the original Registering Authority.

This is an existing provision in Sec. 23. This has been slightly modified fixing time-limit for purpose of registration. This will avoid person using the vehicle for unduly long periods by exhibiting the placard 'For Registration'.

This is a new provision. In the existing Act, these matters can be got done by applying to the Registering Authority in whose jurisdiction, the owner may be presently residing with the result that the original registration records mostly remain unaltered. In the absence of intimation the records cannot be maintained correctly by the original Registering Authority resulting in malpractices. This provision will ensure correct process.

24. REGISTRATION HOW TO BE MADE

1. An application by the owner of a motor vehicle for registration shall be in Form E as may be specified by the Central Government by notification in the official Gazette and shall contain the information required by that form and shall be accompanied by the prescribed fee and the sale certificate issued by the Dealer or the Manufacturer as the case may be, and initial certificate of road worthiness issued by the manufacturers in the case of a new vehicle and by a certificate issued by the competent Military authorities in the case of ex-army vehicles.

Provided that where the motor vehicle is jointly owned by more persons than one, the application may be made by one of them on behalf of all the owners and such applicant shall be deemed to be the owner of the motor vehicle for the purpose of this Act.

2. Every application for registration of motor vehicle, change of address hire purchase cancellation, transfer of ownership or any other application made under this chapter shall be accompanied by recorded evidence such as

The existing sub-sec (1) of Sec. 24 is amplified to cover Ex-Army vehicle. The certificate that should be enclosed with application for registration have also been included for clarity.

Existing provision.

This is a new provision. In certain cases the vehicle owners give fictitious address. To ensure that correct addresses are recorded this provision is introduced.

ration card, telephone bill, extract of voters list or such other evidence to the satisfaction of the registering authority in support of the correctness of the address mentioned in the application.

3. The Registering Authority shall issue to the owner of a motor vehicle registered by it a certificate of registration in form G as may be specified by the Central Government by notification in the Official Gazette and shall enter in a record to be kept by it, particulars of such certificate. One of the specimen of signatures given in the form of application shall be affixed both in the certificate of registration and registration records.

4. The Registering Authority shall assign to the vehicle for display thereon a Registration Mark, that may be specified by the Central Government from time to time, by notification in the official gazette.

Provided that the registration mark shall be exhibited in a manner as may be specified by the Central Government by a notification in the Official Gazette, in a number plate of the size fifteen cm by thirty cm to be coated by reflectorising material revetted to the vehicle which shall be clearly visible during nights.

Provided further that the Central Government may approve a number plate of a smaller size for Motor Cycles and Auto Rikshaw.

5. A certificate of registration issued under sec (2) whether before or after commencement of the M. V. (Amendment) Act 1978 in respect of a motor vehicle other than a transport vehicle shall be subject to the provisions contained in this Act be valid only for a period of fifteen years from the date of issue of such a certificate and shall be renewable on application made in Form F as may be specified by the Central Government by notification in the Official Gazette. Application shall be accompanied by the prescribed fee. The Registering Authority may, on receipt of such application, renew the registration certificate for a period of five years.

6. Notwithstanding anything contained in sub-section (4), the Central Government may, in the interest of public safety and convenience, by order, to be notified in the official gazette, fix the age limits of different types of Vehicles as the Central Government may think fit.

24-A. SPECIAL PROVISION FOR REGISTRATION OF VEHICLE OF DIPLOMATIC OFFICERS ETC.

1. Where an application for registration of a motor vehicle is made under sub Section (1) of section 24 or on behalf of any diplomatic officer or consular officer then not withstanding anything contained in sub Section (2) or sub section (3) of that section the registering authority shall register the vehicle in such manner and in accordance with such procedure as may be provided by rules made in this behalf by the Central Government under sub section (3) and shall assign to the vehicle for display thereon a special registration mark in accordance with the provisions contained in those rules and shall issue a certificate that the vehicle has been registered under this section and any vehicle so registered shall not so long as it remains the property of any diplomatic officer or consular officer require to be registered otherwise under this Act.

2. If any vehicle registered under this section ceases to be the property of any diplomatic officer or consular officer the Certificate of Registration issued under this section shall also cease to be effective; and the provisions of section 23 shall thereupon apply.

3. The Central Government may make rules for the registration of motor vehicles belonging to the diplomatic officers and consular officers regarding the procedure to be followed by the registering authority for registering such vehicles, the form in which certificate of registration of such vehicles

The existing sub-section (2) of section 24 has been slightly modified providing for application of specimen signature of the registered owner. Some of the States have made rule in this behalf.

The size of number plate and reflectorising paints are added. This will enable a person to identify a vehicle even during night.

The existing provisions in Sub-section (4) to (7) are combined. The period of renewal is fixed as five years. The existing law leaves it to the State to fix the period and different states fix different periods of validity. The amended provision will ensure uniformity since the registration certificate is valid throughout India.

Under the present law age limit of the vehicle is fixed only in the case of national permits. Considering road safety aspects and the comforts of the travelling public, the Government should have the power to fix age limit. Enabling provision is made. The existing provision has been proposed to be deleted since the manner assigning registration can better be done through notifications by Central Government.

No change. This is an existing provision of Section 24-A.

are to be issued the manner in which the certificates of registration are to be sent to the owners of the vehicles and the special registration mark to be assigned to such vehicle.

4. For the purpose of this Section, "diplomatic officer" means any person who is recognised as such by the Central Government and if any question arises as to whether a person is or is not such an officer, the decision of the Central Government thereon shall be final.

25. TEMPORARY REGISTRATION

1. Notwithstanding anything contained in section 23 the owner of a motor vehicle may apply to any registering authority or to the prescribed authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration mark.

2. A registration made under this section shall be valid only for a period not exceeding one month and shall not be renewable.

Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body, the period may, on payment of such fees if any as may be prescribed be extended by such further periods as the registering authority considers necessary.

26. PRODUCTION OF VEHICLE AT THE TIME OF REGISTRATION

The Registering Authority shall before proceeding to register a motor vehicle or renew the certificate of registration in respect of a motor vehicle other than a transport vehicle, require the person applying for registration of the vehicle or for renewing the certificate or registration to produce the vehicle either before itself or such authority as the State Government may by order appoint, in order that the Registering Authority may satisfy itself, that the particulars contained in the application are true and that vehicle complies with the requirements of Chapter III & V of this Act and of the rules made thereunder.

27. REFUSAL OF REGISTRATION OR RENEWAL OF CERTIFICATE OF REGISTRATION

A Registering Authority may by order, refuse to register any motor vehicle, or renew the certificate of registration in respect of a motor vehicle (other than a transport vehicle) if in either case, the vehicle is mechanically defective or fails to comply with the requirements of this Act or of the rules made thereunder or the Registering Authority has reasons to believe that the vehicle is stolen or embezzled vehicle or if the applicant fails to furnish the particulars of any previous registration of the vehicle or furnish inaccurate particulars or fails to furnish the required information requested by the Registering Authority with application for registration of the vehicle or as the case may be for renewal of the certificate of the registration thereon and the registering authority shall furnish to the applicant, whose vehicle is refused registration or whose application for renewal of a certificate of registration is refused, a copy of such order together with the reasons for such refusal.

28. EFFECTIVENESS IN INDIA OF REGISTRATION

Subject to the provisions of section 29 a motor vehicle registered in accordance with this chapter in any state shall not require to be registered elsewhere in India and certificate of registration issued or in force under this Act, in respect of such vehicle shall be effective through out India.

Existing provision of Sec. 25 has been modified. At present the total period for temporary registration is not to exceed 3 months. Since there are cases where a chassis has to remain with a Body Builder sometimes for a period exceeding 3 months for various reasons it is felt that such extended period should be left to the discretion of the Registering Authority. This aspect has been taken care of.

The existing provisions of Section 26 lay down that a vehicle complying with the provisions of Chapter V can be registered. The vehicle, before registration, should not only comply with the provision of Chapter V, but also comply with the provisions of this Chapter as well. This aspect has been incorporated.

Secondly sub-section (2) relating to registration of Government vehicles which exempts the vehicle from the provisions of sub-section (1) has been deleted. Since the heads of departments or heads of offices who acquire a vehicle may not have the required expertise to certify a vehicle, it is necessary that such vehicles should also be produced before the Registering Authority for registration.

Under the existing provisions of Sec. 27, there is no provision to refuse the registration or renewal of registration, in the following cases :

1. Stolen or embezzled vehicles

2. Failure to furnish on the application the required particulars and

the provisions in this section have been amplified so as to include the above

2. Reasons also to constitute the reasons for refusal.

No change. Existing provisions of Section 28.

29. ASSIGNMENT OF FRESH REGISTRATION MARK ON REMOVAL TO ANOTHER STATE

1. When a motor vehicle registered in one state has been kept in another State for a period exceeding 12 months the owner of the vehicle shall before the expiry of 13 months apply to the registering authority within whose jurisdiction the vehicle then is, for the assignment of a new registration mark, and shall present the certificate of Registration to that Registering Authority.

2. Subject to provisions of section 26 & 27 and sub-sec. (9) of Sec 31-A, the Registering Authority to which application is made shall assign the vehicle a registration mark as specified in sub-sec (4) of sec 24 to be carried henceforth in the vehicle and shall enter the registration mark upon the Certificate of Registration before returning it to the applicant and shall communicate to the Registering Authority who had previously registered that vehicle, the fresh registration mark assigned. That Registering Authority shall verify its own records as to the correctness of the particulars of the vehicle to which a fresh registration mark has been assigned. The registering authority who had previously registered the vehicle shall, if it finds any discrepancies forthwith report the details of the discrepancies, to the registering authority which has assigned a fresh registration mark who shall take action to cancel the registration.

3. Assignment of fresh registration marks after verification of records of stolen vehicles supplied by Police Head Quarters. State Police Head Quarters shall furnish every month the particulars of stolen and recovered motor vehicles to the Registering Authorities in the State, who shall before assigning fresh registration marks under Section 29 or before taking action on application received under section 30 and 31 in respect of vehicles registered in other states verify the particulars with reference to the applications received.

4. That State Government may make rules under section 41 requiring the owner of the motor vehicle not registered within the State which is brought into or is for the time being in the State to furnish to a prescribed authority in the State, such information with respect to the motor vehicle and registration as may be prescribed.

30. CHANGE OF RESIDENCE OR PLACE OF BUSINESS

1. If the owner of a motor vehicle ceases to reside or have his place of business at the address recorded in the certificate of registration of the vehicle he shall within 30 days of any such change of address intimate his new address to the registering authority by which the certificate of registration was issued or if the new address is within the jurisdiction of another registering authority to that other referring authority and shall at the same time forward the certificate of registration to the registering authority, in order that the new address may be entered therein.

2. A Registering Authority other than the original registering authority making any such entry shall communicate the altered address to the original registering authority.

3. Nothing in sub-section (1) shall apply where the change of address recorded in the certificate of registration is due to a temporary absence not intended to exceed six months in duration or where the motor vehicle is neither used nor removed from the address recorded in the certificate of registration.

31. TRANSFER OF OWNERSHIP

1. Where the ownership of any motor vehicle registered under this chapter the certificate of registration of which has not been suspended or cancelled is transferred.

The existing provision has been modified. The present procedure of obtaining a No Objection Certificate does not serve the required purpose of verifying the records. Since in case N.O.C. is not received after waiting for the stipulated time of one month the assignment of fresh registration mark is done.

It has been proposed to delete the existing provision and instead a new provision is added, for effective check. Registering Authority is empowered to cancel the registration if it is proved that the vehicle is an embezzled one. It has been made obligatory on the part of the original registering authority to verify its records and report to the other registering authority if there are any discrepancies. It is felt that this procedure will be meaningful and more effective.

This is a new provision. The State Police Head Quarters has been made responsible to notify the registering authority about stolen and recovered vehicles.

Existing provision in sub-section (3) of sec. 29 Sub-sec (2-A) has been deleted in view of the proposed provisions in Section 31-A regarding matters about registration of vehicles under Hire-Purchase Agreements, leases etc.,

The existing section 29-A has been omitted in view of revised provision under Sec. 29. Section 30 has not been modified.

Sub-Sec (1-A) to Sec (1-C) have been brought under the new section 37.

- (a) The transferor shall within 14 days of the transfer report the fact of transfer to the original registering authority by whom the transfer is to be effected and shall simultaneously send a copy of the said report to the transferee.
- (b) The transferee shall within 30 days of the transfer report the transfer to the original registering authority and shall forward the certificate of registration to that registering authority together with the prescribed fee and a copy of the report received by him from the transferor in order that particulars of the transfer of ownership may be entered in the certificate of registration.

Provided that, where any control order in relation to distribution and sale of motor vehicles issued by the Central Government in exercise of the powers conferred on the Central Government under any enactment is in force, the ownership of such motor vehicle shall not be transferred except with the written sanction of the competent authority under the said control order.

2. If the registered owner of the vehicle dies, the legal heir shall within 30 days of the death of the registered owner report the death of registered owner to the original Registering Authority.

The Registering Authority or other prescribed authority on receipt of the application in the prescribed form which shall be made within 60 days of the death of the permit holder along with the certificate of registration, the prescribed fees and the legal heir certificate issued by the Tahsilar, shall effect the transfer of ownership.

3. A Registering Authority recording the transfer of ownership in the certificate of registration shall communicate the transfer of ownership to the transferor.

3-A. Special provision regarding Motor Vehicles subject to hire purchase agreement

1. Where an application for registration of a motor vehicle which is held under a hire purchase agreement is made, the registering authority shall make an entry in the certificate of registration regarding the existence of said agreement.

2. Where the ownership of any motor vehicle registered under this chapter is transferred and the transferee enters into a hire purchase agreement with any person (such person being hereinafter referred to as financier) the original registering authority shall on receipt of an application from the parties in the said agreement made an entry as to the existence of such hire purchase agreement in the certificate of registration.

Provided that the Registering Authority while making such an entry in respect of a motor vehicle which is the subject matter of a hire purchase or lease agreement, as referred to in sub sec. (1) and (2) shall not be required to go into the question of the legal title to the vehicle of either of the parties to such hire purchase or lease agreement and the issue of such a Registration Certificate in the name of a person who is in possession thereof shall not in any way affect the legal title of any party.

3. An entry made under sub sec. (1) or sub sec. (2) may be cancelled by the original registering authority on proof of the termination of the hire purchase agreement by the parties concerned.

4. No entry regarding the transfer of ownership of any motor vehicle which is held under the hire purchase agreement shall be made in the certificate of registration except with the written consent of the financier.

The existing provision has been modified so as to make the application for transfer to the original registering authority.

The provision of obtaining N.O.C. deleted for the reason explained against Sec. 29.

This is a new provision for insisting production of the sanction of the Controller, if any Control Order on the distribution and sale of motor vehicles is to be in force.

This provision is made as the present law does not provide for such transfer.

This provision is made so that the transferor may know when the transfer was effected.

No change.

No change.

This is a new provision. Possession of vehicle and legal title to a vehicle are two different aspects. The Registering Authority cannot be expected to verify the title to its satisfaction before making entries. This provision is made for clarity.

No change.

No change.

5. Where the financier satisfies the registering authority that he has taken possession of the vehicle; owing to the default of the registered owner under the provisions of the agreement and that the registered owner refuses to deliver the certificate of registration or has absconded such authority may after giving the registered owner an opportunity to make such representations as he may wish to make by sending to him a notice by registered post with acknowledgement due at his address entered in the certificate of registration and notwithstanding that the certificate of registration is not produced before it cancel the certificate and issue a fresh certificate of registration in the name of the financier after collecting the prescribed fee.

Provided that a fresh certificate of registration issued in respect of a motor vehicle other than a transport vehicle shall be valid only for the remaining period for which the certificate is cancelled, under this sub-section would have been in force.

6. The registered owner shall, before applying to the appropriate authority, for the renewal of a permit or for the issue of a duplicate certificate of registration or for assignment of fresh registration marks under Sec. 29, make an application by Registered Post Acknowledgement Due to the financier for the issue of a no objection certificate. (hereafter in this section referred to as the certificate).

Explanation

In this section "Appropriate Authority" in relation to any permit, means the authority which is authorised by this Act to renew such permit, and in relation to certificate of registration, the registering authority concerned.

7. Within 21 days of the receipt of an application under sub-sec (7) the financier may issue, or refuse, for reasons, which shall be recorded in writing and communicated to the applicant, to issue, the certificate applied for, and where the financier fails to issue the certificate and also fails to communicate the reasons for refusal to issue the certificate to the applicant within the said period of 21 days, the certificate applied for shall be deemed to have been issued by the financier.

8. The registered owner shall, while making the application referred to in sub-sec. (6) to the appropriate authority submit with such application the certificate, if any, obtained under sub-sec (7) or, where no such certificate has been obtained, the communication received from the financier under that sub-section, or, as the case may be, a declaration that he has not received any communication from the financier within the period specified in that sub-sec along with the postal acknowledgement referred to in sub-sec (6).

9. On receipt of an application referred to in sub-sec (6) the appropriate authority may subject to the other provisions of this Act.

- (i) in case where the financier has refused to issue the certificate applied for, after giving the applicant an opportunity of being heard, either
 - (a) renew or refuse to renew the permit.
 - (b) issue or refuse to issue duplicate registration certificate.
 - (c) assign or refuse to assign fresh registration mark.
- (ii) in any other case.
 - (a) renew the permit.
 - (b) issue duplicate registration certificate.
 - (c) assign fresh registration mark.

No change except in the last sentence to make the intention clear beyond any doubt.

The existing provision of sub-sec. (5-A) to (5-D) are amplified so as to include cases of issue of duplicate R C and re-registration of vehicles. According to an estimate roughly Rupees 800 crores are advanced by the Financiers to purchase vehicles and it is felt that their interest should be safeguarded. Though N.O.C. is to be accompanied with the application, non production of N.O.C. will not stand in the way of renewal of permit etc., since discretion is vested with the authorities.

The existing provision is amplified so as to include applications for issue of duplicate registration certificate and assignment of fresh registration mark also. Since the Financial Institutions including Nationalised Banks invest large sum of money to acquire vehicles, it is felt that the interest of the financiers should be safeguarded especially in view of the fact that the vehicles lose identity after re-registration and it will be difficult to keep track of the movement of such vehicles.

10. The provisions of sub-sec (1) to (9) shall so far as may apply to a motor vehicle which is subject to Hypothecation as well as Lease Agreement as they apply to any motor vehicle which is held under Hire Purchase Agreement.

Existing provision.

11. A registering authority issuing duplicate certificate of registration or making entries in the certificate of registration, regarding transfer of ownership, endorsement and cancellation of Hire Purchase Agreement, change of address, alteration of motor vehicle, assignment of fresh registration mark cancellation or suspension shall communicate the details to the financier.

Remarks against above sub-sec holds good.

(31-B) Special Provisions regarding Motor Vehicle purchased through Public Auction

1. Where a person has purchased or acquired a Motor Vehicle at a Public auction and such fact is certified by the Department of the Government or the Courts conducting the auction, such person shall apply with the said certificate to the original registering authority within 30 days of the purchase for the transfer of ownership of the vehicle, in the prescribed form and alongwith prescribed fee and the registration certificate.

This is a new provision. It has been pointed out that difficulties have been encountered in getting the transfer of ownership of auctioned vehicles by the person who purchase the vehicle in such auction, for want of letter from previous owner. This is introduced to avoid these difficulties.

2. On receipt of the application the registering authority shall record the transfer in the certificate of registration free of all encumbrances.

33. ALTERATION OF MOTOR VEHICLES

1. No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are no longer accurate unless he has obtained the prior approval of the registering authority to make such alteration.

Existing provision of Sec 32 have been modified. It has been made obligatory to make any material alteration in the motor vehicle only after getting the prior approval of the registering authority.

Provided that it shall not be necessary to obtain such approval for a replacement of engine or making any change in the unladen weight of the motor vehicle consequent on the addition or removal of fittings or accessories if such change does not exceed 2% of the weight entered in the certificate of registration.

2. Where any alterations have been made in accordance with the approval of the registering authority the owner of the vehicle shall approach the registering authority and get the alteration recorded in the certificate of Registration after payment of prescribed fees.

3. A Registering Authority other than original registering authority making any such entry shall communicate the details the entry to the original registering authority.

33. SUSPENSION OF REGISTRATION

1. If any registering authority has reason to believe that any motor vehicle within its jurisdiction, is in such a condition that its use in a public place would constitute a danger to the public or that it fails to comply with the requirements of the Act or of the Rules made thereunder, the authority may after giving the owner an opportunity of making any representation he may wish to make, by sending to the owner a notice by Registered post with Acknowledgement Due at his address entered in the certificate of registration for reason to be recorded in writing suspend the certificate of registration of the vehicle until the defects are remedied to its satisfaction.

From the existing provision the power to suspend registration, where a vehicle is used for hire or reward has been taken away. The reason is that sec 42 has been amended by substituting word "Transport Vehicle" by the word "Motor Vehicle". Such cases will come under the provision of section 42 and section 123 and 125-A and it is felt that the existing provisions are enough.

2. Where the registration of a motor vehicle has been suspended under sub-section (1) for a continuous period of not less than one month; the registering authority within whose jurisdiction the vehicle was when the registration was suspended shall if it is not the original Registering Authority inform that authority of the suspension and when the suspension has continued without interruption for a period of not less than 6 months the registering authority within whose jurisdiction the vehicle was when the registration was suspended may if it is the original registering authority cancel the registration and if it is not the original registering authority shall forward the certificate of registration to that authority which may cancel it forthwith.

3. The owner of a motor vehicle shall on demand of a registering authority which has suspended the certificate of registration of the vehicle under this section surrender the certificate of registration and any token or card issued to authorise the use of the vehicle in a public place.

4. A certificate of registration and any token or card surrendered under sub-section (4) shall be returned to the owner when the order suspending registration has been rescinded and not before.

34. CANCELLATION OF REGISTRATION

1. If a motor vehicle has been destroyed or has been rendered permanently incapable of use the owner shall within fourteen days or as soon as may be report that fact to the registering authority within whose jurisdiction he resides and shall forward to that authority the certificate of registration of the vehicle together with any token or card issued to authorise the use of the vehicle in public place.

2. If a motor vehicle is stolen and is not traced and the Police has treated the case as "undetected the owner of the vehicle shall within 14 days of receipt of such communication from the Police surrender the certificate of registration to the Registering Authority by whom the vehicle was registered for cancellation.

3. An Insurance Company making a payment of damages on total loss claim shall be deemed to be the owner of such vehicle and the vehicle shall be deemed to be a wreckage. The Insurance Company shall surrender the certificate of registration to the registering authority within 14 days of settlement of the claim.

4. Any registering authority may order the examination of the motor vehicle within its jurisdiction by such authorities as the State Government may by order appoint and if upon such examination and after giving the owner an opportunity to make any representation he may wish to make by sending to the owner a notice by Registered Post Acknowledgement Due at his address entered in the certificate of registration, it is satisfied that the vehicle is in such a condition that it is incapable of being used or its use in a public place would constitute a danger to the public and that it is beyond reasonable repairs may cancel the registration of the vehicle.

5. If a registering authority is satisfied that a motor vehicle has been permanently removed out of India or the vehicle has been stolen and the case has been treated by the police as undetected the registering authority shall cancel the registration.

6. If a registering authority is satisfied that the particulars of engine number and chassis number found in the vehicle are not the same as found recorded in the certificate of registration of that vehicle and that the registration of motor vehicle has been obtained on the basis of documents which were false or by representation of facts which was false, in any material particular, the registering authority shall after giving the owner an opportunity to make such representation as he may wish to make by sending to the owner a notice by registered post with acknowledgement due at his address entered in the certificate of registration and for reason to be recorded in writing cancel the certificate of registration of the vehicle.

7. A registering authority cancelling the registration of motor vehicle under sec 33 or under this section shall communicate the fact in writing to the owner of the vehicle and the owner of the vehicle shall forthwith surrender to that authority, the certificate of registration of the vehicle and any token or card issued to authorise the use of the vehicle in a public place.

8. A registering authority making an order of cancellation under this section shall if it is the original Registering Authority cancel the certificate of registration and the entry relating to the vehicle in its records and if it is not the original

This is an existing provision.

This is a new provision to provide for intimating the cases of thefts of motor vehicle which go undetected so as to remove that registration mark from the records of the registering authority.

This is a new provision. The Insurance Companies do not surrender the registration certificate for cancellation. The new provision provides for cancellation of such registration.

This is an existing provision.

Existing provision.

This is a new provision to cancel the registration of vehicles stolen and could not be traced.

This is a new provision. The registering authorities are given more powers to deal with these cases also so that registration of such vehicles may be cancelled.

Existing provision.

Existing provision.

registering authority forward the certificate of registration to that authority and that authority shall cancel the certificate of registration and the entry relating to motor vehicles in its records.

9. The expression 'original registering authority' wherever it occurs in this chapter means the registering authority in whose record the registration of the vehicle is recorded.

Existing provision.

10. In this section 'Certificate of Registration' includes a certificate of registration renewed under the provisions of the Act.

Existing provision.

35. APPEALS

Any person aggrieved by any order made by the registering authority or any prescribed authority under this Chapter may within 30 days of the receipt of the order appeal to the prescribed authority and such appellate authority shall give notice of the appeal to the registering authority or prescribed authority and after giving opportunity to the registering authority and the appellant to be heard either in person or by pleader pass such orders, as it thinks fit. An order made by the appellate authority shall be final.

This existing provision has been amplified to bring any order made by the authority under this chapter appealable.

36. SPECIAL PROVISIONS IN REGARD TO TRANSPORT VEHICLE

1. Having regard to the number, nature and size of the tyres attached to the wheels of a transport vehicle other than a motor cab, and its make and model and other relevant considerations, the Central Govt. may by notification in the Official Gazette, specify in relation to each make and model of a transport vehicle the maximum safe laden weight of such vehicle and the maximum safe axle weight of each axle of such vehicle.

No change in the existing provision.

2. A registering authority, when registering a transport vehicle other than a motor cab, shall enter in the certificate of registration of the vehicle the following particulars, namely :—

- (a) the unladen weight of the vehicle,
- (b) the number, nature & size of the tyres attached to each wheel,
- (c) the registered laden weight of the vehicle and the registered axle weight pertaining to the several axles thereof, and
- (d) if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods, the number of passengers for whom accommodation provided and the owner of the vehicle shall have the same particulars exhibited in the prescribed manner on the vehicle.

3. There shall not be entered in the certificate of registration of any such vehicle any laden weight of the vehicle or a registered axle weight of any of its axles (different from that) specified on the notification under sub sec (1) in relation to the make and model of the vehicle and to the number, nature and size of tyres attached to the wheels ;

Provided that where it appears to the (Central Government) that heavier weights than those specified in the notification under sub-section (1) may be permitted in a particular locality for vehicle of a particular type, (the Central Government) may, by order in the official Gazette, direct that the provisions of this sub-sec shall apply with such modification as may be specified in the order.

4. When by reason of any alteration in such vehicle, including an alteration in the number, nature or size of its tyres, the registered laden weight of the vehicle or the registered axle weight of any of its axles no longer accords with the provisions of sub-sec (3) the provisions of section 32 shall apply and the registering authority shall enter in the certificate of registration of the vehicles revised registered weights which accord with the said sub-section.

5. In order that the registered weight entered in the certificate of registration may be revised in accordance with the provisions of sub-sec (3), the registering authority may require the owners of transport vehicles in accordance with such procedure as may be prescribed to produce the certificate of registration within such time as may be specified by the Registering Authority.

37. 1. If the owner of the motor vehicle fails to apply for the registration of a new vehicle or assignment of a fresh registration mark with the period specified in sub-sec (1) of sec 23 or sub-sec (1) of section 29 respectively;

2. If the owner of the motor vehicle fails to intimate his new address to the concerned registering authority within the period specified in sub sec (1) of section 30, or

3. If the transferor or the transferee fails to report to the Registering Authority the fact of transfer within the period specified in clause (a) or clause (b) of sub-sec (1) of sec 31, or

4. If the transferee fails to report to the Registering Authority the fact of death of the registered owner within the period specified in sub-sec (2) of sec 31 or

5. If the owner of the vehicle fails to send the application for the transfer of ownership within the period specified under sub sec (1) of sec 31-B,

6. If the owner of the vehicle fails to send the intimation within the time specified in sub-sec (1) (2) and (3) of Sec 34.

The Registering Authority may having regard to the circumstances of the cases require the owner, transferor, transferee as the case may be, to pay in lieu of any action that may be taken against him under this Act such amount not exceeding One Hundred Rupees as the Registering Authority may at his direction decide; where a person has paid the amount no action shall be taken against him under this Act.

38. CERTIFICATE OF FITNESS OF TRANSPORT

1. Subject to the provisions of sec 39, a transport vehicle shall not be deemed to be validly registered for the purposes of sec 22, unless it carries a certificate of fitness issued by the prescribed authority or Authorised testing stations. The certificate shall be in form H as may be specified by the Central Government by notification in the Official gazette to the effect that the vehicle complies for the time being with all the requirements of this Act and the rules made thereunder. Where the competent authority refuses to issue such certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal.

2. Subject to the provisions of sub-sec (3) certificate of fitness relating to a new transport vehicle registered for the first time shall remain effective for a period of one year. Subsequent renewals shall be valid for period of six months each.

3. The issuing authority or other prescribed authority may for reasons to be recorded in writing cancel a certificate of fitness at any time if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Act and the rules made thereunder; and no such cancellation the certificate of registration of the vehicle and any permit granted in respect of the vehicle under chapter IV or IV-A shall be deemed to be suspended until a new certificate of fitness has been obtained.

4. A certificate of fitness issued under this Act shall while it remains effective, be valid throughout India.

This is a new provision. All penalty clauses related to registration matters in this chapter, have been brought in one section.

Existing provision.

A new provision has been made to recognise workshops as authorised, testing stations and on such recognition these testing stations may also issue certificate of fitness. Such Testing Stations are there in some countries.

Existing provision.

The periods of validity of Certificate of Fitness, and renewals, have been made uniform, as at present there is no uniformity in the validity period permitted by different State Transport Authorities.

39. *REGISTRATION OF VEHICLES THE PROPERTY OF THE DEFENCE DEPARTMENT OF THE CENTRAL GOVERNMENT*

1. The authority specified in Part B of the First Schedule may register any motor vehicle which is the property for the time being under the exclusive control of the Defence Department of the Central Government; and any vehicle so registered shall not, so long as it remains the property (or under the exclusive control) of the Defence Department of the Central Government, require to be registered otherwise under this Act.

2. A transport vehicle registered under this section shall carry a certificate (to the effect that the vehicle complies for the time being with all the requirements of this Act and the rules made there under) issued by the authority referred to in sub-sec (1).

3. An authority registering a vehicle under sub-sec (1) assign a registration mark in accordance with the provisions contained in the first schedule and shall issue a certificate in respect of the vehicle that the vehicle has been registered under this section.

4. If a vehicle registered under sub-sec (1) ceases to be the property or under the exclusive control of the Defence Department of the Central Government the provisions of sec 23 shall thereupon apply.

5. The authority registering a vehicle under sub-sec (1) shall furnish to any State Government all such information regarding the general nature, overall dimensions, and axle weights of the vehicle as the State Government may at any time require

No change in the existing provisions except in the headings for clarity.

40. *POWER OF CENTRAL GOVERNMENT TO MAKE RULES*

2. The Central Government may :

- (a) by notification in the Official Gazette make rules to provide for the preparations and up-keep of a National Register of valid certificates of registration of all motor vehicles in the country, to be maintained by the Central Government or the prescribed authority,
- (b) by notification in the Official Gazette specify a check list for testing a transport vehicle for the purpose of fitness certificate.

This is a new provision empowering the Central Government to computerise the record for a National Register.

41. *POWER TO MAKE RULES*

1. A State Government may make rules for the purpose of carrying into effect the provisions of this chapter.

2. Without prejudice to the generality of the foregoing power, such rules may provide for :

- (a) the conduct and hearing of appeals that may be preferred under this chapter (the fees to be paid in respect of such appeals and the refund of such fees) ;
- (b) the appointment, functions and jurisdiction of registering and other prescribed authorities ;
- (c) the period within which an application for renewal of a certificate of registration in respect of a motor vehicle other than a transport vehicle, may be made ;
- (d) the issue (or renewal) of certificate of registration and fitness and duplicate of such certificates to replace the certificate lost, destroyed or mutilated;
- (e) the production of certificates of registration before the registering authority for the revision of entries therein of particulars relating to the registered weight or the colour or colours of the body, wings and front end of vehicles :

- (f) the temporary registration of motor vehicles, and the issue of temporary certificates of registration and marks; and extension of validity of certificate of fitness pending consideration of applications for their renewal ;
 - (g) the manner in which registration marks and the particulars referred to in (sub-sec (2) of sec 36), and other prescribed particulars shall be exhibited ;
 - (h) laying down norms and procedure for approval of design of Trailers, the form of application to be made, the fee to be charged ;
 - (i) the fees to be charged for the issue (or renewal) or alteration of certificate of registration, (for making or cancelling an endorsement in respect of an agreement of hire purchase on hypothecation or Lease Agreement on a certificate of registration) for certificate of fitness, for registration marks, and for the examination or inspection of motor vehicles, and the refund of such fees;
 - (j) the exception of prescribed persons or prescribed classes of persons from payment of all or any portion of the fees payable under this chapter ;
 - (k) the forms, other than those prescribed by Central Govt. to be used for the purpose of this chapter ;
 - (l) the communication between registering authorities of particulars of certificate of registration and by owners of vehicles registered outside the State of particulars of such vehicles and their registration ;
 - (m) conditions for licencing authorised Testing Stations, Security deposits, fees to be collected, penalties, for violation of condition, the qualifications of testing personnel, the equipments to be maintained by testing stations, the control of Authorised Testing Stations, the acceptance of certificates issued by such stations for the purpose of Sec 38 and any other related matter ;
 - (n) the exemption from the provisions of this chapter, and the conditions and fees for exemption, of motor vehicles in the possession of dealers and manufacturers ;
 - (o) the exemption of, (grades and other vehicles designed and used solely for the construction, repair and cleaning of roads) from all or any of the provisions of this chapter and the rules made thereunder, and the conditions governing such exemption ;
 - (p) the forms and the due date for sending details referred to in sub-sec (3) of sec 29 as the procedure thereof ;
 - (q) any other matter which is to be or may be prescribed.
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CHAPTER IV

REASON AND JUSTIFICATION FOR THE PROPOSED CHANGE CONTROL OF TRANSPORT VEHICLES

(42) Necessity of Permits

No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any place whether or not such vehicle is actually carrying any persons passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority, authorising him to use the vehicle in that place in the manner in which the vehicle is being used;

Provided that a Stage Carriage Permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a Contract Carriage.

Provided further that a Stage Carriage permit may, subject to any condition that may be specified in the permit, authorise the use of the vehicle as a goods vehicle either when carrying passengers or not.

Provided further that a goods carrier permit shall, subject to any conditions that may be specified in the permit, authorise the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him or for the carriage of his own goods.

42 (2) Section 42 shall not apply :

- (a) to any transport vehicle owned by the Central Govt. or a State Government and used for Government purposes unconnected with any commercial enterprise;
- (b) to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes;
- (c) to any transport vehicle used solely for the purposes of Police, Fire-brigade, Ambulance;
- (d) to any transport vehicle used for the conveyance of corpses and mourners accompanying the corpses;
- (e) to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety;
- (f) to any transport vehicle used for any other public purposes prescribed in this behalf;
- (g) to any transport vehicle owned by and used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;
- (h) to any transport vehicles owned by and used solely for the purposes of any educational institution recognised by the Central/State Government or whose Managing Committee is a society registered under the Societies Registration Act 1860;

The words "transport vehicle" has been replaced by the words "motor vehicle". This will enable to curtail clandestine plying of non-transport vehicle without permit, presently covered under Sec 33 (1) (b) which has been deleted from the proposed Act. As per present provision the permit holder need not be the owner of the vehicle operated under his permit. That sounds strange. The owner of the vehicle should be the permit holder. As such the words "authorising him to use the vehicle" have been added to achieve the object. No change is contemplated in the existing first and second proviso.

Third proviso has been modified since it has been proposed to take away the distinction between "Public Carriers" and "Private Carriers". A common permit as "Goods Carrier Permit" has been suggested. This will include the use of the vehicle for the owners' use also without specifying any conditions for such use as is obtaining in the existing proviso. The existing sub-sec (2) regarding permit for Private Carriers has been omitted in view of the abolition of the class of Private Carrier Vehicles.

In this sub-sec the provisions of sub-sec (3) are included with following modifications & additions.

No change.

No change.

No change.

It has been proposed that mourners can also accompany the corpses as is the usual practice.

No change.

No change.

The existing sub clause (ee) & (ff) are combined.

No change.

- (i) to any goods vehicle whose GVW does not exceed 3000 Kgs ;

- (j) subject to such condition as the Central Government may, by notification in the Official Gazette, specify to any transport vehicle purchased in one State and proceeding to a place situated in the same State or in any other State, without carrying any passenger or goods ;

- (k) to any transport vehicle which has been temporarily registered under Sec 25, while proceeding empty to any place for the purpose of registration of the vehicle under Section 24 ;

- (l) to any transport vehicle used for such purposes other than plying for hire or reward as the Central Government may, by notification in the Official Gazette, specify ;

- (m) to any transport vehicle which owing to flood, earthquake, blockade or any other natural calamity or emergency is required to be diverted through any other route whether within or outside the State with a view to enabling it to reach its destination or to any transport vehicle pressed into service by the Government within or outside the State owing to floods, earthquakes, blockades or any such natural calamities of emergency ;

- (n) to any transport vehicle while proceeding empty to any place for purpose of repairs ;

- (o) to any transport vehicle taken possession by the Financier owing to the default of the registered owner under the provision of the agreement relating to hire purchase, hypothecation or lease, while proceeding empty to the place of the financier.

In the proposed Act, the GVW of LMV is fixed as 6000 kg as against the existing 4000 kg. Further only one type namely "Goods Carrier" is now proposed. Taking into consideration these 2 aspects and the fact that vehicles of 3000 kg and below are commonly used for transport from Main Market to Mini Markets the modification is proposed. The vehicles with 3000 kg GVW are excluded from permit requirement. Tempo which has 3700 kg GVW would now come under permit control.

The existing provision apply to only such of those vehicles going to a place outside the State. It is now suggested that this can be applied even to vehicles proceeding from one place to another in the same State also.
No change.

No Change.

No change.

In the proposed provision the circumstances arising out of road blockade and emergency needs have been included. Further this has also been made applicable to vehicles, pressed into service by the Government under the circumstances explained herein.

No change.

This is a new provision to enable the seized vehicles to proceed to the place of the financier. At present, this could be possible only by obtaining a Temporary permit by the owner of the vehicle, which means loss of time and difficulties in taking a physical possession of the vehicle of the defaulter.

Existing provisions.

3. Subject to the provisions of sub-sec (2) sub-sec (1) shall if the State Govt. by rule made under section 68 so prescribes, apply to any motor vehicle adapted to carry more than 9 persons excluding the driver.

(43) Power of State Government to Control Road Transport

1. A State Government having regard to :

- (a) the advantage offered to the public, trade and industry by the development of motor transport, and ;
- (b) the desirability of co-ordinating road and other modes of transports ;
- (c) the desirability of preventing the deterioration of the road system and ;
- (d) the desirability of preventing uneconomic competition among motor vehicles, may from time to time, by notification in the Official Gazette, issue direction to the State Transport Authority—
 - (i) regarding the prohibition or restriction subject to such conditions as may be specified in the directions, of the conveying of long distance goods traffic generally or of specified classes of goods, by goods carriers ;

The existing provisions in sub clause (d) (i) of sub-sec (1) of Sec 43 have been deleted and brought out separately under sub-sec (2) now proposed.

This sub-clause relates to "fixing of fares and freights". A special mechanism is proposed for this and hence separately dealt with.

- (ii) regarding the grant of permits for alternative routes or areas, to persons in whose cases the existing permits are not renewed in pursuance of the provisions of sub-sec (1-D) or Section 68-F, or are cancelled or the terms thereof are modified in exercise of the powers conferred by clause (b) or clause (c) of sub-sec. (2) of section 68-F;
- (iii) regarding any other matter which may appear to the State Government necessary or expedient for giving effect to any agreement entered into with the Central Government or any other State Government or the Government of any other country relating to the regulation of motor transport generally and in particular to its co-ordination with other means of transport and the conveying of long distance goods traffic;

Provided that no such notification shall be issued unless or draft of the proposed directions is published in the official gazette specifying therein a date being not less than one month after such publication, on or after which the draft will be taken into consideration and any objection or suggestion which may be received has in consultation with State Transport Authority been considered after giving the representatives of the interests affected an opportunity of being heard.

43 (2) The State Government after taking into consideration the matters set forth in sub-sec 1(a) to 1(d) of Sec 43, shall with the approval of the State Legislature lay down the fares and freights for Stage Carriages, Contract Carriages and Goods carriers and shall from time to time, by notification in the Official Gazette issue direction to the State Transport Authority regarding fixing of such fares and freights.

Where the State Government consider it expedient so to do, it may by notification in the Official Gazette, issue direction to the State Transport Authority to fix the fares and freights on provisional basis, subject to the condition that the notification fixing or revising fares and freights is placed before the State Legislature at its next meeting for approval. In case the State Legislature modifies the rates so fixed such modified rates shall come into force from the date as may be fixed by the Legislature and where the Legislature do not approve of the fares and freights provisionally fixed by the Government and approves a reduced rate, such modified rates shall not have the effect of invalidating any action taken based on the provisional fixation.

3. Any directions regarding the fixing of fares and freights of State Carriages, Contract Carriages and Goods Carriers may provide that such fares and freights shall be inclusive of the tax payable by the Passengers or the consigner of the goods as the case may be, to the operators of Stage Carriages, Contract Carriage or Goods carriers under any law relating to tax on passengers and goods already in existence or to be made from time to time.

(43-A) Powers of State Government to Issue Orders and Direction to Transport Authorities

1. The State Government may issue such orders and directions of a general character, as it may consider necessary in respect of any matter relating to road transport to such State Transport Authority or a Regional Transport Authority and such Transport Authority shall give effect to all such orders & directions.

2. The State Government may, on a consideration of the matters set forth in sub-sec (1) of Sec 47, direct any Regional Transport Authority or the State Transport Authority to open any new route or to permit additional State Carriage to be put, on any specified route and such transport authorities shall give effect to all such directions.

This relates to the fixation of fares and freights. Existing provision has been revised. The existing cumbersome procedure has been removed and in its place it is provided that the State Government will fix the fares with the approval of State Legislature who, in the democratic society, will take care of the social and political aspect of the matter. Since any increase in fares is to affect the common man, State legislature is an appropriate forum for final decision.

It has also been provided that in case of urgency to revise fares, the State Government may do so and require *ipso facto* approval of legislature. This is provided due to the fact that the cost of diesel, spare parts etc., get increased from time to time, due to various factors, and the State Government may consider it necessary to give urgent direction to STA to revise the fares.

This is a new provision. Many States have passed legislation for collecting tax on passenger and goods carriers. This provision is based on the State Amendment (Kerala).

This is a new provision to enable the Government to issue direction of general nature not affecting the constitutional aspect.

Since the Courts have held that fixing the limit of the number of permits to be issued is only an administrative act, it is proposed that the Government should have the power to issue any such direction in public interest.

Provided that the State Govt. on consideration of the matters set forth in Sub-Section (1) of Section 47 and if, it considers it so expedient to do so, in overall public interest, may through Gazette notification remove the limit fixed by RTA/STA in terms of Section 47(3), on the number of stage carriage permits on any route/routes.

(44) Transport Authorities

1. The State Government shall, by notification in the Official Gazette, constitute, for such period as it thinks fit, for the State, ■ State Transport Authority to exercise and discharge the powers and functions specified in sub-sec (3) and shall in like manner constitute Regional Transport Authority to exercise and discharge throughout such regions as may be specified in the notification, in respect of each Regional Transport Authority the powers and functions conferred by or under this Act on such Authorities.

Provided that in the Union Territories the State Government may obtain from constituting any Regional Transport Authority.

Provided further that the area specified as the region of a Regional Transport Authority shall in no case be less than an entire revenue district or an entire Metropolis.

44 (2) A State Transport Authority or a Regional Transport Authority may consist of a Chairman and other officials and non-officials as the State Government may think fit to appoint.

Provided that the STA shall not consist of more than five members including Chairman and the RTA shall not consist of more than 3 members including Chairman.

- (a) Notwithstanding anything contained in sub-sec (2), the State Government may, where it considers necessary or expedient so to do, by order, constitute the State Transport Authority or a Regional Transport Authority so as to consist of only one member who shall be an official.

Provided that no person who has any financial interest whether as proprietor, employee or otherwise in any Transport undertaking in the State shall be appointed as or continue as STA, RTA, a member/Chairman of a State or Regional Transport Authority and if any such person acquire financial interest in any transport undertakings in the State, he shall within four weeks of so doing give notice in writing to the State Government of acquisition of such interest and shall vacate the office.

Provided further that nothing in this section shall be construed as debarring an official other than an official connected directly with the Management or operation of a transport undertaking from being appointed as or continuing as STA, RTA, a Member/Chairman of any such authority merely by reason of the fact that the Government employing the official has or acquired any financial interest in a transport undertaking.

3. A State Transport Authority shall give effect to any directions issued under Sec 43, and subject to such directions and save as otherwise provided by or under this Act, shall exercise and discharge throughout the State the following powers and functions, namely :—

- (a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities, if any, of the State;
- (b) to perform the duties of a Regional Transport Authority where there ■ no such Authority and, if ■ thinks fit or if so required by a Regional Transport Authority, to perform those duties in respect of any route common to two or more regions;

No change except that the words "Presidency Towns" have been replaced by the words "Metropolis".

The number of members at RTA & STA has been laid down to ensure that these bodies are compact and functional.

Situations do arise where constituting of full-fledged STA/RTA becomes impossible and the work cannot be allowed to suffer. Hence provisions for single-member RTA/STA, as already in vogue in the State of Tamilnadu. Normally the Transport Commissioner of the State is the Chairman STA. He is a senior level and experienced officer. The insistence of judicial experience for Chairmanship is not necessary.

Existing provisions in Sec 44 (2).

Existing provisions in the proviso to Sec 44 (2).

- (c) to settle all disputes and decide all matters on which differences of opinion arise between Regional Transport Authorities; and
- (d) to discharge such other functions as may be prescribed.

4. For the purpose of exercising and discharging the powers and functions specified in sub-sec (3), a State Transport Authority may, subject to such conditions as may be prescribed issue directions to any Regional Transport Authority and the Regional Transport Authority shall in the discharge of its functions under this act, give effect to and be guided by such direction.

5. The State Transport Authority and any Regional Transport Authority if authorised in this behalf by rules made under sec 68, may delegate such of its powers and functions to such authority or person and subject to such restrictions, limitations and conditions as may be prescribed by the said rules.

(44-A) Officers to Exercise Notified Powers

The State Government may appoint an officer and notwithstanding anything contained in this Act, may by notification in the Official Gazette, authorise such officer or any officer subordinate to him to exercise and discharge, in lieu of any other authority prescribed by or under this Act, such powers and functions as may be specified in the notification.

45. GENERAL PROVISIONS AS TO APPLICATIONS FOR PERMITS

1. Every application for a State Carriage Permit shall be made to the RTA or STA inviting such applications.

2. Every application for a Stage Carriage Permit to operate on an inter state route shall be made to the STA of the State in which the applicant resides or has his principal place of business.

3. Every application for a Permit other than a Stage Carriage permit shall be made to the RTA of the Region in which the applicant resides or has his principal place of business. Provided that if it is proposed to use the vehicle in two or more Regions lying within the same State, the application shall be made to the RTA of the region in which the major portion of the proposed route lies and in the case the portion of the proposed route in each of the regions is approximately equal, to the RTA of the region in which it is proposed to keep the vehicle or vehicles;

Provided further that if it is proposed to use the vehicle in two or more regions lying in different States the application shall be made to the STA of the State in which the applicant resides or has his principal place of business.

46. APPLICATION FOR STATE CARRIAGE PERMIT

Subject to the provision of sub-sec (1) of sec 45 an application for a Permit in respect of a service of Stage Carriage or to use a particular motor vehicles as a Stage Carriage in this chapter referred to as a Stage Carriage permit shall be made in the prescribed form. The application shall be made by such date as may be appointed by the Transport Authority for receipt of such application.

47. PROCEDURE OF TRANSPORT AUTHORITIES IN CONSIDERING APPLICATION FOR STAGE CARRIAGE PERMIT

1. A Transport Authority shall in considering an application for a Stage Carriage Permit, have regard to the following matters, namely—

- (a) the interest of the Public generally;
- (b) the advantages to the public of the service to be provided, including the saving of time likely to be effected thereby and any convenience arising from journeys not being broken.

Existing provisions. No change.

No change.

This is a new provision, to take care of situations where the State Governments have difficulties in constituting STA/RTA and in the interim period have to entrust the work to the officer. This provision will enable State Government to confer the powers of STA & RTA to any officer of the Government in lieu of such authorities.

The existing provisions have been modified in view of proposed amendment to Sec 57 (2) that application for Stage Carriage Permits can be made only when called for and not at any time.

The existing provisions have been modified in view of the proposed sec 45 (1).

The existing sub-sec (3) & (4) have been omitted in view of the proposed provisions under sec 45 (1) for applying for Stage Carriage permits when called for.

The existing provision has been slightly modified to the effect that application can be made only when called for.

This is the existing provision.

No change.

No change.

No change.

- (c) the adequacy of other passengers transport services operated or likely to operate in the near future, whether by road or other means, between the places to be served;
- (d) the benefit to any particular locality or localities likely to be afforded by the service;
- (e) the operation by the applicant of other transport services, including those in respect of which applications from him for permits are pending;
- (f) the condition of the roads included in the proposed route;
- (g) the publication of a scheme under sec 68-C in respect of service of Stage Carriage and shall also take into consideration any representations made by the public or by persons already providing passenger transport facilities by any means along or near the proposed route, or by any association representing persons interested in the provision of road transport facilities recognised in this behalf of the State Government or by State Transport undertaking or by any local authority or police authority within whose jurisdiction any part of the proposed route lies.

Provided that other conditions being equal preference shall be given to the applications or Permits from—

- (i) Co-operative Societies registered or deemed to have been registered under any enactment in force for the time being.
- (ii) A person who has a valid licence to drive a heavy passenger motor vehicle.
- (iii) Person displaced due to the coming into force of the Approved scheme under chapter IV-A and who has not been given alternate routes.

1A. The Government of a State shall reserve in the State Certain percentage of Stage Carriage Permits for the scheduled caste and the scheduled tribes.

Explanation—In this sec and in sub-sec (7) of sec 63, "Scheduled Castes & Scheduled Tribe" have the meanings respectively assigned to them in Article 366 of the Constitution.

1B. The reservation of Permits under sub-sec (1-A) shall be in the same ratio as in the case of appointments made by direct recruitment to public services in the State.

1C. The Government of a State may, having regard to the extent to which persons belonging to economically weaker sections of the community have been granted Stage Carriage permits in the State.

- (a) reserve in that State such percentage of Stage Carriages permits as may be prescribed, for persons belonging to economically weaker sections of the community; or
- (b) notwithstanding anything contained in the proviso to sub-sec (1) give preference, in such manner as may be prescribed, to application for Stage Carriage permits from such persons.

Explanation I—In this sec and in sec 63(7) and 68, a person shall be deemed to belong to economically weaker section of the community if and only if, on the prescribed date :—

- (a) the annual income of such persons together with the annual income, if any, of the members of this family; or

This is the existing provision. No Change.

No change.

No change.

No change.

Sub-clause (g) and representation from the public are the two new aspects included. Consideration must be given to the schemes of services by the State Transport Undertakings and also the public should be able to make representation with regard to need and other implications. Existing provisions do not cover these aspects and have been since provided.

No change.

No change.

This is a new provision as a natural corollary brought out from the existing clause (d) (iii) of sub-sec (1) of sec 43.

No change except that the reservation for goods carriers has been deleted since no limit in the number of vehicles is fixed.

No change.

No change.

No change.

No change.

No change.

No change.

- (b) the extent of land (whether in one class or in different classes) held by such person together with that, if any, held by the members of his family; or
- (c) the annual income and extent of land aforesaid does or do, not exceed such limit as may be prescribed.

Explanation II—For the purposes of Explanation I 'Family' in relation to an individual, means the wife or husband, as the case may be, of such individual and the minor children of such individual.

1-D. The number of permits reserved under sub-sec (1-B) and clause (a) of sub-sec (1-C) shall not exceed fifty per cent of the total number of State Carriage permits granted during a calendar year.

1-E. In giving effect to the provisions of sub-sec (1-B) and clause (a) of sub-sec (1-C) the Regional Transport Authority or the State Transport Authority may if considers necessary or expedient so to do, group the various routes within its jurisdiction.

1-F. Where any Stage Carriage permit is to be granted from the quota reserved under sub-sec (1-B) or clause (a) of sub-sec (1-C) to any co-operative society registered or deemed to have been registered under any enactment in force for the time being or any firm to which the provisions of the Indian Partnership Act, 1932 (9 of 1932), apply no permit shall be granted to such society or firm unless the member of the co-operative society or the partners of the firm belong to the Scheduled Castes, the Scheduled Tribes or economically weaker sections of the community.

Provided that where the members of such co-operative society or partners of such firm are partly from the Scheduled Castes, partly from the Scheduled Tribes and partly from the economically weaker sections of the Community or from any two of these categories, any permit under this sub-sec shall be granted to such society or firm only from the quota reserved for the category to which the largest number of members of the co-operative societies, or, as the case may be, partners of the firm belong.

Provided further that where no reservation has been made in the State for economically weaker section of the community under clause (a) of sub-sec (1-C) no permit under this sub-section shall be granted to a co-operative society or firm unless the members of such society or partners of such firm belong to the Scheduled Castes or the Scheduled Tribes or partly to the Scheduled Castes and partly to the Scheduled Tribes and the permit to such society or firm shall be granted only from the quota reserved for the Scheduled Castes or the Scheduled Tribes according as to whether the larger number of the members of the co-operative society or partners of the firm belong to the Scheduled Castes or the Scheduled Tribes.

1-G. The circumstances under which the manner in which, and extent to which, reservation under sub-sec (1-A) and clause (a) of sub-sec (1C) may be carried forward shall be such as may be prescribed.

1-H. Notwithstanding anything contained in this section, an application for Stage Carriage permit from a State Transport Undertaking for operating in any Inter-State route shall be given preference over all other applications.

Provided that the authority shall not grant a permit under this sub-sec unless it is satisfied that the State Transport undertaking would be able to operate in the inter-state route without detriment to its responsibility for providing efficient and adequate road transport service in any notified area or notified route as referred to in sub-sec (3) of Sec 68-D where the undertaking operate the service.

Explanation—For the purpose of this sub-sec, "Inter-state route" means any route lying continuously in two or more States.

No change.

No change.

No change.

No change.

No change.

No change.

No change.

No change.

No change.

2. A Transport Authority shall refuse to grant a Stage Carriage Permit if it appears from any timetable furnished that the provisions of this Act relating to the speed at which vehicles may be driven are likely to be contravened;

Provided that before such refusal an opportunity shall be given to the applicant to amend the timetable so as to conform to the said provisions.

3. A Transport Authority, may having regard to the matters mentioned in sub-sec (1) limit the number of Stage Carriages generally or any specified type for which Stage Carriage permit may be granted in the region or in any specified area or on any specified route within the region; or

4. Open any new route and such order shall be final and shall not be called to question on appeal or revision before any Tribunal or Courts.

48. GRANT OF STAGE CARRIAGE PERMITS

1. Subject to the provisions of Sec 47, A Transport Authority may, on application made to it under sec 46 grant a stage carriage permit in accordance with the application or with such modification as it deems fit or refuse to grant such a permit;

Provided that no such permit shall be granted in respect of any route or area not specified in the application.

2. The Transport Authority, if it decides to grant a Stage Carriage permit, may grant the permit for a service of Stage, carriage of specified description or for one or more particular stage carriages and shall attach to the permit all mandatory conditions and may, subject to any rules that may be made under this Act attach to the permit, any one or more of the conditions as may be specified by the Central Government.

49. APPLICATION FOR CONTRACT CARRIAGE PERMIT

An application for a permit to use the vehicle as a Contract Carriage shall be made in the prescribed form.

The application may be made at any time.

50. PROCEDURE OF TRANSPORT AUTHORITY IN CONSIDERING APPLICATION FOR CONTRACT CARRIAGE PERMIT

1. A Transport Authority shall in considering an application for a Contract Carriage permit, have regard to the extent to which additional Contract Carriages may be necessary or desirable in the public interest, and shall also take into consideration any representation which may then be made or which may previously have been made by persons already holding contract carriage permits in the region or by any local authority or Police authority in the region to the effect that the number of Contract Carriages for which permits have already been granted is sufficient for or in excess of the needs of the region or any area within the region.

No change.

A point has been made in certain quarters that there should be no limit on the number of Stage Carriage Permits to be issued by the Transport Authorities and that the permits should be freely given to whosoever asks for it, leaving the viability of operations to be decided by demand and supply forces. While this may sound as liberalization, it is not so and will mean only anarchy on the roads. In fact, in the existing provision the in built flexibility exists, whereby the Transport Authority in the State can decide upon any number of Stage Carriage permits to be issued on any route, and it could be any large number if its assessment so indicates. Secondly, the passenger transport services are to be operated in the interest of commuter-public. The public convenience has to be ensured which presupposes appropriately regulated services. The unhealthy competition amongst permit-holders with their tendency to operate only on lucrative routes and resultant mal-practices will violate the objective of public convenience. The existing provision with due flexibility of deciding upon the number of Stage Carriage Permits to be issued by STA/RTA therefore is considered as essential and adequate for providing adequate passenger transport services.

This is a new provision. The courts have held that opening of routes and fixing the number of buses are of purely administrative nature. For avoiding unnecessary litigation this provision is added for clarity.

No change.

Existing sub-sec (3) gives a long list of conditions to be attached to the permit. These things should appropriately form part of the rules. Provision to this effect has been made and all other details omitted.

Existing provision has been modified. Instead of listing out the columns in the form, it has been proposed that the application should be in the prescribed form.

This provision is brought out from the existing sub-sec (1) of sec 57.

Existing provision:

Provided that the authority shall not grant a permit under this sub-sec unless it is satisfied that the State Transport Undertaking would be able to operate in the interstate route without detriment to its responsibility for providing efficient and adequate road transport service in any notified area or notified route as is required in sub-sec (3) of Sec 42 D where the undertaking operates the service.

Explanation - For the purpose of this sub-sec "inter-state route" means any route lying continuously in two or more States.

2. A Transport Authority may having regard to the matters mentioned in sub-sec (1) limit the number of vehicles for which Contract Carriage permit may be granted and such order shall be final and shall not be called to question on appeal or revision before any Tribunal or Court.

51. GRANT OF CONTRACT CARRIAGE PERMIT

1. Subject to the provisions of Sec 50, a Transport Authority may, on an application made to it under sec 49, grant a Contract Carriage Permit to be valid throughout the State or in accordance with the application or with such modifications as it deems fit such as limiting the area of operation for particular class of vehicles or refuse to grant such a permit.

Provided that no such permit shall be granted in respect of any area not specified in the application.

Provided also that if the grant of Contract Carriage Permit would have the effect of increasing the number of beyond the limits fixed under sub-sec (2) of sec 50 Transport Authority shall refuse to entertain the application.

2. The Transport Authority if it decides to grant a Contract Carriage permit, may, subject to any rules that may be made under this Act, attach to all mandatory conditions and may subject to any rules that may be made under this Act attach to the permit any one or more of the conditions as may be specified by the Central Government.

3. An application to vary the condition of a Contract Carriage permit other than a temporary permit, by the inclusion of a new route or routes, or by the variation, extension or curtailment of the route specified in the permit shall be treated as an application for a new permit.

52. RENTING OF A MOTOR-CAB TO ANOTHER PERSON

1. Operators of Tourist Cars, as may be approved by the Ministry of Central Government dealing in Tourism and State Tourist Departments, may be eligible to operate the renting of Cars.

Provided that if it proposed to operate renting of Motor cab the applicant need not be an approved tourist car operator.

2. An application for an Authorisation to operate the renting cab business shall be made to the STA, in the prescribed form with the prescribed fee. On receipt of an application the STA may grant the authorisation in the prescribed form, subject to such conditions as it thinks fit. If the STA refuses the authorisation, he will give reasons for such a refusal. The STA, while granting the authorisation, shall also take into consideration the experience of the applicant in the transport field; infrastructure facilities he is having his antecedents and such other considerations relevant to the grant of authorisation. The STA shall suspend or cancel the Authorisation if it has reasons to believe that, the licensee has violated any of the conditions of the licence.

3. No person shall rent a motor cab to any other person.

- (a) Unless the latter is the holder of an effective driving licence to drive the said class of motor vehicle; and
- (b) Until he has inspected the driving licence of the person to whom the motor vehicle is to be rented and compared and verified the signatures and photograph thereon with that of such person and has obtained from him a passport size copy of his photograph for his record;
- (c) Every person renting a motor vehicle to another person shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is

This is a new provision similar to sub-sec (3) of sec 47 in respect of Stage Carriage. This is suggested to define the powers of the Transport Authority in respect of limiting the number of Contract Carriage permits as per the assessment. There has to be a finality of such a decision, otherwise frivolous litigation, goes on hampering the transport service.

Existing provision.

Existing provision.

This is a new provision similar to the proviso to sub-sec (3) of sec 57 in respect of Stage Carriage. This is suggested to empower the Transport Authority to reject the application where a limit in the number of vehicles has been fixed and has reached.

This is a slightly modified provision of existing sec 51 (2).

The existing provisions of sec 57 (8) modified where inclusion of additional vehicle in the permit has been deleted since one vehicle can have only one permit.

This is a new provision. The person hiring a taxi may wish to drive it himself without the aid of the driver of the taxi. Such a system is in vogue in some Foreign countries. If any Tourist operator comes forward to running a cab service the transport authorities should be in a position to permit the operation. Hence this provision is made.

Existing sections 52 & 53 have been omitted since it has been proposed to do away with the distinction between Private carriers and Public carriers and bring both these categories under one namely "Goods Carrier".

rented, with details of his driving licence such as the driving licence number, the date of issue, the date of expiry, the Authority which issued the driving license and the date and time during which the motor vehicle was rented. Such records shall be kept for a period of one year, and shall be open for inspection at all reasonable time by STA, any RTA, or by any officer authorised in this behalf by the STA or RTA as the case may be.

53. APPLICATION FOR PRIVATE SERVICE VEHICLE PERMIT

1. An application for a permit to use the vehicle as a Private Service vehicle shall be made in the prescribed form.
2. The Transport Authority may grant the permit in accordance with such application or with such modification as it deems fit or refuse to grant a permit.
3. The transport authority if it decides to grant the permit shall attach to the permit all mandatory conditions and any other prescribed condition.

54. APPLICATION FOR GOODS CARRIER PERMIT

An application for a permit to use a Motor Vehicle for the carriage of goods for hire or reward including the carriage of his own goods or goods in connection with a trade or business carried on by him, in this chapter referred to as a goods carrier permit, shall be made in the prescribed form. The application may be made at any time.

55. GENERAL FORM OF PERMITS

Every permit other than a temporary permit issued under section 62 shall consist of two parts, Part A of which shall be complete in itself and shall contain all the necessary particulars of the permit and the conditions attached thereto and Part B of which shall be a summary of the permit containing such particulars as may be prescribed. A permit shall cover only one vehicle.

56. GRANT OF GOODS CARRIER PERMITS

A Transport Authority may, on an application made to it under sec 54, grant a goods carrier permit to be valid throughout the State or in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit for reasons to be recorded in writing.

Provided that no such permit shall be granted in respect of any route not specified in the application.

2. The Regional Transport Authority shall attach to the permits all mandatory conditions and may subject to any rules that may be made under this Act, attach to the permit any one or more of the conditions as may be specified by the Central Government.

3. An application to vary the conditions of a goods-carrier permit other than a temporary permit, by the inclusion of a new route or routes or by the variation, extension or curtailment of the routes specified in the permit, shall be treated as an application for the grant of a new permit.

57. PROCEDURE IN APPLYING FOR AND GRANTING PERMITS

1. An application for a permit other than Stage Carriage permit may be made at any time.

The existing provision is slightly modified. The remarks for the deletion of existing sections 52 & 53 will hold good.

Existing provision of Sec 59-A slightly modified as it is felt that one permit should cover only one vehicle as there are cases where one person is able to get more than one vehicle in one permit as per the interpretation by the courts. To make the concept more clear, the last sentence from the existing provision has been omitted.

As far as goods vehicles are concerned, all registered goods vehicles should get the permits to ply in that State without restriction and automatically. This liberalization has been done. The provision of the present sec 55 and 56 are combined in this section. The provision relating to reservation of permits have been deleted since the goods carriers permits are to be issued without any restriction in the number.

Also introduced as a new concept of issue of straightaway the permit for State-wide operation without following the procedure of notifying the number inviting application, objection, hearing etc., to eliminate delays as also to simplify the procedure.

The existing sec 56 (2) has been slightly modified.

The existing provision under sec 57 (8) has been included with modification that an additional vehicle cannot be included in the permit as one vehicle should have only one permit and which can be had without any botheration.

Application for permit can be made any time. This modification is done in view of removal of restriction in the matter of issue of permits, other than Stage Carriage permits.

2. An application for a Stage Carriage permit may be made by such date as may be appointed by the Transport Authorities for receipt of such application.

3. On receipt of an application for a Stage Carriage permit the Transport Authority shall make the application available for inspection at the Office of the Authority and shall publish the application or the substance thereof in the prescribed manner together with a notice of the date not being less than fifteen days from the date of publication of such notice before which representation in connection therewith may be submitted and the date not being less than 30 days from such publication on which and the time and place at which the application and any representation received will be considered.

Provided that if the grant of a Stage Carriage permit in accordance with the application or with modification would have the effect of increasing the number of vehicles operating in the region or in any area or on any route within the region under the class of permit to which the application relates beyond the limits fixed under sub-sec (3) of sec 47 or if the application is made not in response to a notification under sub-sec (2) the Transport Authority may summarily refuse the application without following the procedures laid down in this section.

4. No representation in connection with an application referred to in sub-sec (3) shall be considered by the Transport Authority unless made in writing before the appointed date and unless a copy thereof is furnished simultaneously to the applicant by the person making such representation.

5. When any representation such as is referred to in sub-sec (3) is made, the Transport Authority shall dispose of the application within 30 days of the date fixed under sub-sec (3) for the receipt of representation at a public hearing which the applicant and the person making the representation shall have an opportunity of being heard either in person or by a duly authorised representative.

6. Where, no representation such as is referred to in sub-sec (3) is made, the Transport Authority shall dispose of the application within 15 days of the date fixed for receipt of representation in sub-sec (3).

7. A Transport Authority shall not reject an application for permit of any kind, unless the applicant has been given an opportunity of being heard in person or through a duly authorised representative and unless the applicant has been given in writing its reasons for the refusal.

8. An application to vary the conditions of any Stage Carriage Permit, other than a temporary permit, by the inclusion of a new route or routes or by the variation, extension or curtailment of the route specified in the permit or to increase the frequency of service without any increase in the number of vehicles or by altering the route covered by the permit shall be treated as an application for the grant of a new permit.

Provided that it shall not be necessary so to treat an application made by the holder of a Stage Carrier permit who provides the only service on any route to increase the frequency of the service so provided without any increase in the number of vehicles.

Provided further that in the case of

- (i) variation, the termini shall not be altered and the distance covered by the variation shall not exceed twenty four kms.

The existing provision has been modified so that application for Stage Carriage permit can be made only when called for. This will put a stop to indiscriminate filing of applications for Stage Carriage permits on various routes.

No change in the existing provision.

This is an existing provision, suitably amplified so as to empower the Transport Authority to summarily reject the application which is not made in pursuance of specific advertisement as per stipulation in sec 57 (2).

No change.

The existing provision is modified so as to make the disposal of application by the RTA time-bound. In the existing Act, there is no time limit and it is felt that there must be a reasonable limit for disposal of applications. The time limit has been fixed as 30 days, for disposal, in case there is any representation against the applicant.

This is a new provision provided for time bound disposal of application where there are no representation received. Time stipulated is 15 days.

Existing provision, modified.

Under the existing provision more than one vehicle is added to one permit in the guise of increasing the number of services. Now it has been proposed to be modified that any increase in services like increasing frequency is to be without increase in the number of vehicles.

Existing provision.

This is a new provision. At present only in clause (XXI) of sub-sec (3) of existing sec 48 relating to the conditions of permit, the provision is made, empowering the RTA to vary the conditions of permit. It is felt that for any application made by the operators on his own accord for the permit, a similar general power should be with RTA.

- (ii) extension, the distance covered by extension shall not exceed twenty four kms. from the termini and any variation within such limits shall be made only after the transport authority is satisfied that such variation will serve the public convenience and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof.

9. A Regional Transport Authority may before such date as may be specified by it in this behalf, replace any Stage Carriage permit, Contract Carriage permit, or Goods Carriers permit granted by another RTA before the said date by a fresh permit conforming to the provisions of Sec 48, or sec 51 or sec 56, as the case may be, and the fresh permit shall be valid for the same route or routes or the same area for which the replaced permit was valid.

Provided that no condition other than a condition which was already attached to the replaced permit or which could have been attached there to under the law in force when that permit was granted shall be attached to the fresh permit except with the consent in writing of the holder of the permit.

10. Notwithstanding anything contained in sec 58, a permit issued under the provision of sub-sec (9) shall be effective without renewal for the remainder of the period during which the replaced permit would have been so effective.

58. DURATION AND RENEWAL OF PERMIT :

1. A permit other than a temporary permit issued under sec 62 shall be effective without renewal for a period of 5 years.

Provided that where the permit is countersigned under sub-sec (1) of sec 63, such counter-signature shall remain effective without renewal for such period so as to synchronise with the validity of the primary permit.

2. Permit may be renewed on an application made not less than 15 days before the date of its expiry.

3. Notwithstanding anything contained in sub-sec (2) the RTA or STA as the case may be, may entertain an application for a renewal of a permit after the last date specified in that sub-sec if it is satisfied that the applicant was prevented by good cause from making an application within the time specified.

4. The RTA or STA as the case may be, may reject the application if it is satisfied that the application is unsuitable on one or more of the following grounds :

- (i) Financial instability as evidenced by insolvency or decrees remaining unsatisfied as on 30 days prior to the date of consideration of the application.
- (ii) Unsatisfactory performance as a Stage Carriage service operator by the applicant as evidenced by his having been punished for two times or more for any one or more of the offences specified below within 36 months reckoned from 15 days prior to the date of consideration of the application.
 - (a) over-loading.
 - (b) plying without payment of tax or plying without payment of tax before the due date.

Existing provisions suitably modified for clarity by replacing the word "it" by the words "another RTA".

No change.

The existing Act provides different periods of validity to different classes of permit. It is felt that the validity should be same for all permits. It is put as five years.

The time limit for making application for renewal has also been made uniform in all cases. Existing sub-sec (2) and (2-A) have been deleted and new sub-sec (2) and (3) have been introduced to make renewal of permit automatic.

This is a new provision. In view of deletion of existing sub-sec (2) the renewal application need not be treated as an application for a new permit. At the same time, it is felt that the RTA must have the discretion to renew or not to renew and with this end in view a new sub-sec (4) has been introduced to enable the Transport Authorities to reject application for renewal of permit based on the grounds such as past performance of service by the applicant.

- (c) plying on unauthorised route or making unauthorised trips.

Provided that orders of punishment which are stayed by the appellate authority shall not be taken into account.

Provided further that no application shall be rejected unless an opportunity is given to the holder of the permit to be heard.

5. Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have the effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of sec 62, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.

59. TRANSFER OF PERMITS--GENERAL

1. Save as provided in sub section (2) a permit shall not be transferable from one persons to another except with the permission of the transport authority which granted the permit and shall not without such permission operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit.

2. Transfer of Permit on Death of Permit Holder :

Where the holder of a permit dies, the person succeeding to the possession of the vehicles covered by the permit may, for a period of 3 months use the permit as if it had been granted to himself.

Provided that such person had, within 30 days of the death of the holder, informed the transport authority which granted the permit of the death of the holder and of his own intention to use the permit;

Provided further that no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder.

3. The transport authority may, on application made to it within 3 months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit.

4. Notwithstanding anything contained in sub-sec (3) the Transport Authority may entertain an application made after the date specified in that sub section if it is satisfied that the applicant was prevented by good cause from making an application within the time specified.

60. CANCELLATION AND SUSPENSION OF PERMITS:

1. The Transport Authority which granted a permit may for reasons to be recorded in writing cancel the permit or may suspend it for such period as it thinks fit.

- (a) On the breach of any condition attached to the permit or
- (b) if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorised by the permit or
- (c) if the holder of the permit ceases to own the vehicle covered by the permit or
- (d) if the holder of the permit has obtained the permit by fraud or misrepresentation or
- (e) if the holder of the permit fails without reasonable cause to use the vehicle for the purpose for which the permit was granted or
- (f) if the holder of the permit acquires the citizenship of any foreign country.

Existing provision.

Existing provision. No change.

This is an existing provision under sec 61. Provision relating to different circumstances when permit can be transferred have been brought at one place.

This has been newly introduced. In many cases the legal heirs of the deceased owner of the vehicle fail to adhere to the time limit of 90 days. This causes hardship as the transport authority refuses to accept application made after 90 days. This provision will enable the Transport Authority to consider allowing the transfer in such cases, where there has been genuine difficulties in submitting applications in time.

No change in the existing provisions.

Provided that no permit shall be suspended or cancelled unless an opportunity has been given to the permit holder to furnish his explanation.

Provided further that no permit shall be cancelled unless an opportunity is given to the permit holder to be heard either in person or by a duly authorised representative.

2. The powers exercisable under sub-sec (1) other than the power to cancel a permit by the Transport Authority which granted the permit may be exercised by any authority or person to whom such powers have been delegated under sub-sec (5) of sec 44.

3. The transport authority may exercise the powers conferred on it under this section in relation to a permit granted by any authority or person to whom power in this behalf has been delegated under sub-sec (5) of sec 44 by that transport authority as if the said permit had been granted by that transport authority.

4. Any authority or person to whom power has been delegated under sub-sec (5) of Sec 44 by a transport authority may exercise the powers conferred on it under this section in relation to a permit granted by delegating authority as if the said permit had been granted by such delegated authorities.

5. The powers exercisable by a Transport Authority under sub-sec (1) in relation to a permit or under sub-sec (7) of sec 63 shall be exercisable by any transport authority and any authority or persons to whom the power in this behalf has been delegated under sub-section (5) of sec 44 in whose jurisdiction the violation of the provisions of this section have been committed in respect of that permit as if such permit had been granted by such transport authority, or any authority or persons.

6. Where in relation to a permit issued under sec 63 (7), a violation of condition of permit is committed outside the jurisdiction of the Transport Authority which granted the permit, the STA of that other state may take action under sub-sec (1) of sec 60, to suspend the operation of the permit in that State, notwithstanding any action that may be taken by the Authority which issued permit.

7. Where a permit is liable to be cancelled or suspended under clause (a) or clause (b) or clause (c) of sub-sec (1) and the transport authority is of opinion that having regard to the circumstances of the case it would not be necessary or expedient so to cancel or suspend the permit if the holder of the permit agrees to pay a certain sum of money, then notwithstanding anything contained in sub-sec (1), the transport authority may, instead of cancelling or suspending the permit, as the case be, recover from the holder of the permit the sum of money agreed upon.

8. The powers exercisable by the transport authority under sub-section (5) may, where an appeal has been preferred under sec 64, be exercised also by the appellate authority.

61. REPLACEMENT OF VEHICLES COVERED BY PERMIT.

The holder of a permit may with the permission of the authority by which the permit was granted replace any vehicle covered by the permit by any other vehicle of the same nature.

62. TEMPORARY PERMITS

1. A Transport Authority may without following the procedure laid down in sec 57, grant permits, to be effective for a limited period not in any case to exceed 4 months, to authorise the use of a transport vehicle temporarily.

The existing section does not provide for giving an opportunity to the permit holder to furnish his explanation before suspending the permit. This has now been included.

Existing provision under sub section (2-A).

Existing provision under sub sec (1-B)

This is a new provision. It is considered necessary to empower the Transport Authority to suspend the permit to prevent repeated clandestine operation of vehicles from other States in its region. Existing section leaves the transport authorities helpless, who cannot curb clandestine operations particularly the tourist vehicles.

Existing provision under sub-sec (3) No change.

Existing provision under sub-sec (4). No change. Existing sec 61 has been omitted and the contents included in sub-sec (2) and (3) of sec 59.

This has been brought out from the existing sub-sec (2) of sec 59.

Existing provision is retained for the following reasons: Even though policy and procedure for issuance of permits is liberalized so that it should not be difficult for anyone to get any type of permit without delay and difficulty and consequently the need for temporary permits specially for goods vehicle may not be there at all. However there would be certain contingencies which will necessitate a temporary journey outside the state for those having inter-state permits. Enabling provision for the same has to be there.

- (a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or
- (b) for the purpose of a seasonal business, or
- (c) to meet a particular temporary need, or
- (d) pending decision on an application for the renewal of a permit or
- (e) in such circumstances, as may in the opinion of such authority justify the grant of such permit and attach to any such permit any conditions it thinks fit.

2. Notwithstanding anything contained in sub-sec (1), temporary permit may be granted there under in respect of any route or area where:

- (i) no permit could be issued under section 48 or sec 51 or sec 54 in respect of that route or area by reason of an order of court or, other competent authority restraining the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained; or
- (ii) as a result of the suspension by a court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit, in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension.

Provided that the number of transport vehicles in respect of which the temporary permit is so granted shall not exceed the number of vehicles in respect of which the issue of a permit has been restrained or as the case may be, the permit has been suspended.

63. VALIDATION OF PERMIT FOR USE OUTSIDE REGION IN INTER-STATE PASSENGER TRANSPORT PERMITS FOR WHICH GRANTED

Except as may otherwise be prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region unless the permit has been counter-signed by the Regional Transport Authority of that other region, and a permit granted in any one State shall not be valid in any other State unless counter-signed by the State Transport Authority of that other State or the Regional Transport Authority concerned:

Provided that a goods carrier permit or a Contract Carriage permit in relation to a Motor Cab other than an Autorickshaw granted by the Regional Transport Authority of any one region, for any area in any other region or regions within the same State shall be valid in that area without the countersignature of the Regional Transport Authority of the other region or of each of the other regions concerned:

Provided further that where both the starting point and the terminal point of a route are situated within the same State, but part of such route lies in any other State and the length of such part does not exceed 16 kms, the permit shall be valid in the other State in respect of that part of the route which is in the other State notwithstanding that such permit has not been counter-signed by the State Transport Authority or the Regional Transport Authority of that other State:

Provided also that:

- (a) where a motor vehicle covered by a permit granted in one State is to be used for the purposes of defence in any other State, such vehicle shall display a certificate in such form, and issued by such Authority, as the Central Government may, by notification in the Official Gazette, specify, to the

This is a new provision to cover any other cases in public interest. Proviso (1) & (2) under sub-sec (1) have been deleted as it is felt unnecessary to keep the provisions in view of the ruling of the Court that temporary need and permanent needs can co-exist.

No change.

No change.

No change.

No change in the existing provision.

Procedure for grant of permit has been simplified and as per the proposed amendment, one can straightaway obtain a State wide goods carrier or Contract Carriage permit. To enable such a grant, the existing proviso has been suitably amended.

No change.

No change.

effect that the vehicle shall be used for the period specified there in exclusively for the purposes of defence and

- (b) and such permit shall be valid in that other State notwithstanding that such permit has not been counter-signed by the State Transport Authority or the Regional Transport Authority of that other States:

No change.

1.A. Notwithstanding anything contained in sub-sec (1), a permit granted or countersigned by a State Transport Authority shall be valid in the whole State or in such regions within the State as may be specified in the permit.

No change.

2. A Regional Transport Authority when counter signing the permit may attach to the permit any condition which it might have imposed if it had granted the permit, and may likewise vary any condition attached to the permit by the Authority by which the permit was granted.

No change.

3 The provisions of the chapter relating to the grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of countersignatures of permits:

No change.

Provided that it shall not be necessary to follow the procedure laid down in Sec 57 for the grant of countersignatures of permits where the permits granted in any one State are required to be counter-signed by the State Transport Authority of another State or by the Regional Transport Authority concerned as a result of any agreement arrived at between the States after complying with the requirements of sub-sec (3-A).

No change. Except that the provisions relating to the grant of permit by the Inter-State Transport Commission has been deleted since the Inter-State Transport Commission is proposed to be abolished.

Provided further that the agreement between the States shall not cover goods carrier permit.

It has been proposed to grant Inter-State permit to any person without placing any restriction in the number of vehicles to which such permits may be granted. In the circumstances the question of inclusion of goods carrier permit within the purview of Inter-State agreement does not arise. Hence this provision is added.

3.A. Every proposal to enter into an agreement between the States referred to in the Proviso to sub-sec (3) and every proposal in such agreement to fix the number of permits which is proposed to be granted or countersigned in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette, together with a notice of the date before which any person interested in this behalf shall submit his representations in connection therewith and the date, not being less than 30 days from the date of such publication on which, and the authority by which, and the time and place at which, the proposal and any representations received in connection therewith will be considered.

It is felt that there is no point in restricting the class of person who may make representations in this regard and any person interested should have the opportunity of making representations. This section is proposed to be modified accordingly.

3.B. Every agreement arrived at between the States shall, in so far as it relates to the grant of countersignatures of permits, be published in the Official Gazette by each of the States concerned and the State Transport Authority of the State and Regional Transport Authority concerned shall give effect to it.

No change.

3.C. Any agreement published under sub-sec (3-B) shall be subject to a review by the signatory States once a year or at such shorter intervals as circumstances may warrant and may be modified or a supplemental agreement entered into and the procedure laid down in sub-sec (3-A) and (3-B) shall so far as it can be made applicable be followed in every such case as if the proposal were a separate proposal to enter into an agreement.

No change. At present, the States take their own time, to finalise the agreements and at same time, it takes even longer time to finalise any supplemental agreement or modify the existing agreements resulting in set back in making adequate provision of transport facilities on Inter-State routes. It is felt that the processing of agreements by the States should be time bound. With this end in view this provision has been newly introduced.

Notwithstanding anything contained in sub-sec. (1), a Regional Transport Authority of one region may issue a temporary permit under sec. 62 to be valid in another region or State with the concurrence, given generally or for the particular occasion, of regional Transport Authority of that other region or of the State Transport Authority of that other State, as the case may be.

The existing provisions provides for issue of Temporary Permit only under 2 sub clause of sec. 62 with concurrence of other State given generally or for particular occasion. It is felt that there is no need for such restrictive provision and that all clauses under sec. 62 may be covered since the temporary permit is to be granted only if concurrence is granted and not otherwise. Hence this sub-section sec has been suitably modified.

6. Notwithstanding anything contained in sub sec. (1) but subject to any rules that may be made under this Act, the Regional Transport Authority of any one region or as the case may be the STA may, for the convenience of the public, grant a special permit in relation to a vehicle covered by permit issued under sec. 48 (including a reserve Stage carriage) and covered by permit issued under sec 51 or 63 (7) for carrying a passenger or passengers for hire or reward under a contract, express or implied, for the use of the vehicle as a whole without stopping to pick up or set down along the line of route passengers not included in the contract, and in every case where such special permit is granted, the Regional Transport Authority shall assign to the vehicle, for manner thereon, a special distinguishing mark in the form manner specified by the Central Government and such special permit shall be valid in any other region or State without the countersignature of the Regional Transport Authority of the other region or of the State Transport Authority of the other State, as the case may be.

7. Notwithstanding anything contained in sub sec (1) but subject to any rules that may be made by the Central Government under this Act, any State Transport Authority may, for the purpose of promoting tourism, grant permits to operate throughout the Territory of India or in such contiguous States not being less than five in number including the States in which the permit is issued as may be specified in such permit in accordance with choice indicated in the application. The number of tourist vehicles to which such permits may be granted shall be specified by the Central Government in respect of that State, and the provisions of sec 49, 50, 51, 58, 59, 60, 61 and 64 shall as far as may be apply in relation to such permits.

Provided that preference shall be given to applications for permits from :

- (i) The India Tourism Development Corporation.
- (ii) State Tourism Development Corporation.
- (iii) A State Tourist Dept.,
- (iv) Such operators of tourist cars, or such travel agents, as may be approved in this behalf by the Ministry of the Central Government dealing in tourism.
- (v) a State Transport Undertaking.
- (vi) Ex-Servicemen.

8. No permit under sub sec (7) shall be issued :

- (i) to an individual if he already holds in his own name such permits in respect of 3 or more vehicles or

Under the existing provision a special permit can be given to any Public Service Vehicle. According to sec (2) (25), a public service vehicle is defined as a vehicle *used or adapted to be used for the carriage of passengers for hire or reward* and includes a motor cab, Contract Carriage and Stage Carriage. It is interpreted by some States that, to be eligible for a special permit under this sub clause, the vehicle need not be the one used for the carriage of passengers for hire or reward having a basic permit to operate as a Contract Carriage, Stage Carriage or Motor cab, but it is enough if the vehicle is *adapted to be used for the carriage of passengers for hire or reward*. There is a basic difference between the 2 classes of vehicles. The former is used for the carriage of passengers for hire or reward which mean it should have a basic permit and the latter is only adapted to be used for the carriage of passengers for hire or reward which means that any vehicle with arrangements for seating of passengers would qualify for this special permit and it need not have a basic permit. If this argument is accepted we would be creating yet another class of vehicles for the purpose of special permits alone. As these vehicles do not have any basic permit and as such can move out from one region to another region at their will, it would be very difficult to trace them in case of any serious violation of M V Act or Taxation Act. From the point of view of tighter control over violation of the Act, it would not be advisable to give room for creation of such special classes of vehicles. Further in the proposed Act, provision has been made for grant of State wide Contract Carriage permits and Motor Cab permits. Therefore the Contract Carriages, State Carriages and Motor cabs having basic permits are more than sufficient to cater to the special needs of the public by obtaining the special permit under this sec. It is therefore felt that the issue of special permits should be restricted only to vehicles having a basic permit. This sub-section has been amended suitably.

In the existing sub-sec the following changes have been made :

1. the rules are to be made by the Central Government. This is obviously for the purpose of uniformity as otherwise each State may have different sets of rules.
2. In the matter of grant of permit, preference is also to be given to the following 2 additional category of applicants.

- a. State Transport undertaking.
- b. Ex-serviceman.

It is felt that since State Transport Undertakings are created for providing an efficient and adequate road transport service, they should have preferential treatment. As regards, ex-servicemen they deserve to be given preferential treatment over individual applicants because of the need to rehabilitate them in the normal stream of life and disciplined force as they are, they will be in a position to serve the public better.

3. While the area of operation could be any number of states, it is provided that the applicant shall choose atleast a minimum of five numbers including the Home State. It has been the experience that by and large, the vehicles under sec. 63(7) have been operating in two or three States. At the most it is a regional operation. Facility of opting for 5 contiguous State to operate would meet the requirements. Secondly such permits would be required to have authorisation for other States, on payment of Composite fee. Experience has been that the All India Tourist buses, were being misused as State Carriages and that too in far off places having no connections to the Home State. The proposed provision will eliminate misuse and at the same time achieve the object of Tourist promotion.

This is a new provision. In order to prevent concentration of permits in a few hands it is felt that ceiling in the holding of permits by individuals and companies is necessary. But at the same time, it is necessary that no such restriction need be placed on Tourism Development Corporation, Tourist Department and State undertakings. It is considered that an

- (ii) to a company or a Firm if it already holds in its name such permits in respect of 7 or more vehicles. Provided that this restriction shall not apply to the applicants referred to under item (i) (ii) (iii) (iv) & of sub-section (7).

9. The Government of a State shall reserve in that State certain percentage of tourist vehicles for the scheduled caste & scheduled tribes. Such reservation shall be in the same ratio as in the case of appointments made by direct recruitment to public service in the State.

Existing 8 and 9 deleted.

10. The following shall be conditions of every permit granted under sub-sec (7), namely :—

- (i) every motor vehicle in respect of which such permit is granted shall conform to such description, requirement regarding the seating capacity, standards of comforts, amenities and other matters, as the Central Government may specify in this behalf;
- (ii) every such motor vehicle shall be driven by a person having such qualifications and satisfying such conditions as may be specified by the Central Government; and
- (iii) such other conditions as may be prescribed by the Central Government.

11. Notwithstanding anything contained in sub-sec (1), but, subject to the rules that may be made by the Central Government under sub-sec (15), State Transport authority may, for the purpose of encouraging long distance Inter-State road transport, grant in a State, Inter-State permits in respect of goods carriers and the provisions of sections 54, 56, 58 59, 60, 61 and 64 shall, as far as may be, apply to or in relation to the grant of Inter-State permits.

Explanations—In this section Inter-State permit means a permit granted by the State Transport Authority to goods carriers to operate throughout the territory of India or in such contiguous States, not being less than two in number, including the State in which the permit is issued, as may be specified in such permit in accordance with the choice indicated in the application.

individual can hold a maximum of 3 vehicles and a company, a maximum of 7 vehicles on the basis of the existing provision made under sub sec(12) for National Permits.

This is a new provision.

In the existing Act there is provision for reservation of permits for Scheduled castes and scheduled tribes in the matter of grant of Stage Carriage permits, public carrier permits and National Permits. In the proposed draft Act, the issue of Public Carrier permits and National Permits have been liberalised and there is no ceiling in the number of vehicles for which National Permits or goods carrier permits may be granted. Therefore reservation has been retained only for Stage Carriage Permits. Since there is a ceiling limit in respect of tourist permits sub section (7) of Section 63 it is felt that as in the case of State Carriage Permits, a provision is necessary in this case also to give adequate representation to Scheduled Castes and Scheduled Tribes. Hence the new provision.

The present provision insists for securing deposits from every applicant for a permit. If the application is rejected the deposit has to be refunded as the purpose of the deposit is for the good conduct of the operator which is subject to forfeiture for violations of condition of permit. Therefore unnecessary work is thrown on the staff who has to deal with refund application. Further no provision exists to reimburse the deposit in case of for-feiture. Existing sub-section (9) lays down the circumstances under which for-feiture of deposits can be ordered. There is already a provision under Section 60 for suspension of permit for violation and to collect compounding fees. It is therefore felt that the security deposit provision is unnecessary and therefore existing sub-section 8 and 9 are deleted.

No change.

Existing 12 to 14 Deleted

The present provision prescribes a limit in the number of vehicles for which National Permits may be granted. TDC in its last sitting recommended that there need not any ceiling in the matter of grant of National Permit. There has been representation that there are several types of permits in respect of goods carrier now, namely :

- (a) District Permit
- (b) Intra-State Permit
- (c) Inter-State Permit on bilateral agreements
- (d) Zonal permits on Zonal agreements
- (e) National Permit

and that there is no need to have so many type of permits and it may be reduced. The working group felt that the procedure of entering into Inter-State agreements is time consuming and in view of the policy decision of TDC on National Permit, there is need for reducing the types of permit to the minimum. It has been felt that there can be only 2 types one for Inter-State operation and the other for intra-State operation and when there is no ceiling in the number of vehicles for which such permits may be granted, there is also no need to have reservation for Scheduled caste & Scheduled tribes. Existing sec 11 has been modified accordingly and existing sub sec (12) to (14) have been deleted.

15.

- (a) The Central Government may make rules for carrying out the provision of sub-sections (7) and (11).
- (b) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely :
 - (i) the authorisation fee payable for the issue of Inter-state permit and permits for Tourist vehicles;
 - (ii) the fixation of the laden weight of the motor vehicle in relation to Inter-state permit;
 - (iii) the distinguishing particulars or marks to be carried or exhibited in or on the motor vehicle;
 - (iv) the colour or colours in which the motor vehicle is to be painted;
 - (v) any matter, not specified in this Act, which shall be borne in mind by the State Transport Authority in granting Inter-state permit and permits for Tourist Vehicles;

For the reason, as mentioned against sub-section (7) it is felt that tourist vehicle should be subjected to the composite fee as in the case of Inter-state permits (formerly National Permits). This will also act as a check over the clandestine use of these vehicles as Stage Carriages. This sub-section has been amended suitably.

Explanation—In this sub-sec 'authorisation fee' means the annual fee, that may be prescribed by the Central Government by notification in the official gazette, which may be charged by the State Transport Authority of a State to enable a motor vehicle, to be used in other States.

64. APPEALS

1. Any person :—

- (a) aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him or
- (b) aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or
- (c) aggrieved by the orders made under Section 59, or
- (d) aggrieved by the refusal of the State or Regional Transport Authority to countersignature a permit or by any condition attached to such countersignature, or

No change.

No change.

No change.

No change.

- (e) aggrieved by refusal of renewal of a permit or No change.
- (f) being a local authority or a police authority or an association which, or a person providing transport facilities or any other person who, having opposed the grant of a permit, is aggrieved by the grant thereof or by any condition attached thereto or No change.
- (g) aggrieved by the refusal to grant permission under Section 61 or
- (h) aggrieved by any other order which may be prescribed, may within the prescribed time and in the prescribed manner, appeal to the State Transport Appellate Tribunal constituted under sub-sec (2) who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final.

2. The State Government shall constitute for the State a State Transport Appellate Tribunal which shall consist of a judicial officer not below the rank of a District Judge :

Provided that in relation to a Union Territory the Tribunal may consist of the administrator of that territory or any officer who has judicial experience. No change.

64-A : Revision

The State Transport Appellate, Tribunal may either on its own motion or on an application made to it call for the record of any case in which an order has been made by a State Transport Authority or Regional Transport Authority and in which no appeal lies; and if it appears to the State Transport Appellate Tribunal that the order made by the State Transport Authority or Regional Transport Authority is improper or illegal, the State Transport Appellate Tribunal may pass such order in relation to the case as it deems fit and every such order shall be final; No change.

Provided that the State Transport Appellate Tribunal shall not entertain any application from a person aggrieved by an order of State Transport Authority or Regional Transport Authority unless the application is made within 30 days from the date of the order;

Provided further that the State Transport Appellate Tribunal may entertain the application after the expiry of the said period of 30 days if it is satisfied that the applicant was prevented by sufficient cause from making the application in time;

Provided also that the State Transport Appellate Tribunal shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

(65) Restriction of Hours of work of Drivers

1. No Person shall cause or allow any person who is employed by him for the purpose of driving a transport vehicle or who is subject to his control for such purpose to work : No change.

- (a) for more than five hours before he has had an interval of rest of at least half an hour; or
- (b) for more than eight hours in one day; or
- (c) for more than 48 hours in the week

2. The State Government may by rule made under sec 68 grant such exemptions from the provisions of sub-sec (1) as it thinks fit, to meet cases of emergency or of delays by reason of circumstances which could not be foreseen.

3. The State Government or, if authorised in this behalf by the State Government by rules made under sec 68, the State or a Regional Transport Authority may require persons employing any persons whose work is subject to any of the provisions of sub-sec (1) to fix before hand the hours of work of such persons so as to conform with those provisions and may provide for the recording of the hours so fixed.

No change.

4. No person shall work or shall cause or allow any other person to work outside the hours fixed or recorded for the work of such persons in compliance with any rules made under sub sec (3).

No change.

5. The State Government may prescribe the circumstances under which any period during which the driver of a vehicle although not engaged in work is required to remain on or near the vehicle may be deemed to be an interval for rest within the meaning of sub sec-(1).

No change.

(66) Voidance of Contracts Restrictive of Liability

Any contract for the conveyance of a passenger in a Stage Carriage or a contract carriage, in respect of which a permit has been issued under this chapter shall so far as it purports to negative or restrict the liability of any person in respect of any claim made against that person in respect of the death of, or bodily injury to, the passenger while being carried in, entering or alighting from the vehicle, or purports to impose any conditions with respect to the enforcement or any such liability, be void.

No change.

66. A. Agent or Canvasser to Obtain Licence.

1. No person shall engage himself :

- (i) as an agent or canvasser, in the sale of ticket for travel by public service vehicles or in otherwise soliciting custom for such vehicles, or
- (ii) as an agent in the business of collecting, forwarding or distributing goods carried by goods carriers, unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government.

2. The conditions referred to in sub-sec (1) may include all or any of the following matters, namely;

No change.

- (a) the period for which a licence may be granted or renewed;
- (b) the fee payable for the issue of renewal of the licences;
- (c) the deposit of security
 - (i) of a sum not exceeding Rs. 5000 in the case of an agent in the business of collecting forwarding or distributing goods carried by goods carriers;
 - (ii) of a sum not exceeding Rs. 500 in the case of any other agent or canvasser, and the circumstances under which the security may be forfeited;
- (d) the provision by the agent of insurance of goods in transit.
- (e) the authority by which and the circumstances under which the licence may be suspended or revoked ;
- (f) Such other conditions as may be prescribed by the State Government.

3. It shall be a condition of every licence that no Agent or Canvasser to whom the licence is granted shall advertise in any newspaper, book, list, classified directory or other publication unless there is contained in such advertisement appearing in such newspaper, book, list, classified directory or other publication the licence number and the particulars of the Authority which granted the licence.

This is a new provision. Several advertisements are appearing in the newspaper, publication etc., about arrangements being made by Travel Agents for arranging of Tours, Travels etc., and asking for remittance of advance money. The public are caught unaware in many cases by these supposed travel agents. To avoid such happenings it is laid down that the licence number and the particulars of Licencing Authority should be quoted in the advertisement. This will enable the public to check up whether or not the Travel Agent is an approved Agent before parting with their money.

(67) Power to make Rules as to Stage Carriages and Contract Carriages

1. A State Government may make rules to regulate, in respect of Stage Carriages and contract carriages,—

(b) the conduct of passengers in such vehicles.

2. Without prejudice to the generality of the foregoing provision, such rules may—

- (a) authorise the removal from such vehicle of any person infringing the rules by the driver or conductor of the vehicle, or, on the request of the driver or conductor, or any passenger, by any police officer ;
- (b) require a passenger who is reasonably suspected by the driver or conductor of contravening the rules to give his name and address to a Police Officer or to the driver or conductor on demand ;
- (c) require a passenger to declare, if so requested by the driver or conductor, the journey he intends to take or has taken in the vehicle and to pay the fare for the whole of such journey and to accept any ticket provided therefor ;
- (d) require, on demand being made for the purpose by the driver or conductor or other person authorised by the owner of the vehicle, production during the journey and surrender at the end of the journey by the holder thereof of any ticket issued to him ;
- (e) require a passenger, if so requested by the driver or conductor, to leave the vehicle on the completion of the journey the fare for which he has paid ;
- (f) require a passenger to abstain from doing anything which is likely to obstruct or interfere with the working of the vehicle or to cause damage to any part of the vehicle or its equipment or to cause injury or discomfort to any other passenger ;
- (g) require a passenger not to smoke in any vehicle on which a notice prohibiting smoking is exhibited ;
- (h) require the maintenance of complaint books in Stage Carriages and prescribe the conditions under which passengers can record any complaints in the same.

No Change.

(68) Power to Make Rules for the Purposes of this Chapter

1. A State Government may make rules for the purpose of carrying into effect the provisions of this chapter.

2. Without prejudice to the generality of the foregoing power, rules under this section may be made with respect to all or any of the following matters, namely ;

- (a) the period of appointment and the terms of appointment of and the conduct of business by Regional and State Transport Authorities and the reports to be furnished by them and the transaction of business in the absence of the Chairman or any other Member of the Regional Transport Authority or State Transport Authority and specify the nature of business which the circumstances under which and the manner in which business could be so transacted.

No Change.

- (b) the percentage of Stage Carriage permits and permits for Tourist vehicles to be reserved under sec 47 or sec 63 for economically weaker sections of the community ;
- (c) the conduct of business by any such authority in the absence of any member (including the Chairman) thereof and the nature of business which, the circumstances under which and the manner in which, business could be so conducted ;
- (d) the conduct and hearing of appeals that may be preferred under this chapter (the fees to be paid in respect of such appeals and the refund of such fee);
- (e) the forms to be used for the purpose of this chapter, including the forms of permit ;
- (f) the manner in which preference shall be given in the grant of Stage Carriage permits, or permits for Tourist vehicles, to economically weaker sections of the community where no reservation is made to such applicants;
- (g) the date and limits of annual income and the extent of land for the purpose of explanation below sub sec (1-C) of sec 47 ;
- (h) the circumstances under which the manner in which, and the extent to which, reservation may be carried forward in respect of Stage Carriage permits and permits for Tourist vehicles.
- (i) the manner in which and the time within which every application for a Stage Carriage permit shall be published, as required by sub-sec (3) or sec 57, and the circumstances under which and the fees on payment of which copies of such applications may be granted;
- (j) the issue of copies of permits in place of permits lost, destroyed or mutilated;
- (k) the documents, plates and marks to be carried by a transport vehicles, the manner in which they are to be carried and languages in which any such documents are to be expressed ;
- (l) the fees to be paid in respect of applications for permits, duplicate permits and plates ;
- (m) the exemption of prescribed persons prescribed classes of persons from payment of all or any portion of the fees payable under this chapter;
- (n) the custody, production and cancellation on revocation or expiration of permits, and the return of permits which have become void or have been revoked ;
- (o) the conditions subject to which, and the extent to which a permit granted in another State shall be valid in the State without countersignature ;
- (p) the conditions subject to which, and the extent to which a permit granted in one region shall be valid in another region within the State without countersignatures.
- (q) the conditions to be attached to permits for the purposes of giving effect to any agreement such as is referred to in clause (iii) of sub-sec (1) of Sec 43 ;
- (r) the time within which and the manner in which appeals may be made ;
- (s) the construction and fittings of, and the equipment to be carried by, Stage and Contract carriages, whether generally or in specified areas ;
- (t) the determination of the number of passengers a Stage or contract carriage or a Private service vehicle is adapted to carry and the number which may be carried ;

- (u) the conditions subject to which goods may be carried on Stage and Contract carriages partly or wholly in lieu of passengers ;
- (v) the safe custody and disposal of property left in a Stage or contract carriage ;
- (w) regulating the painting or making of transport vehicles and the display of advertising matter thereon, and in particular prohibiting the painting or marking of transport vehicles in such colour or manner as to induce any person to believe that the vehicle is used for the transport of mails ;
- (x) the conveyance in Stage or Contract Carriages of corpses or persons suffering from any infectious or contagious disease or goods likely to cause discomfort or injury to passengers and the inspection and disinfection of such carriages, if used for such purposes ;
- (y) the provisions of taxi metres on motor cabs requiring approval or standard types of taxi meters to be used and examining, testing and sealing taxi metres ;
- (z) prohibiting the picking up or setting down of passengers by Stage or Contract carriages at specified places or in specified areas or at places other than duly notified stands or halting places and requiring the driver of a Stage Carriage to stop and remain stationary for a reasonable time when so required by a passenger desiring to board or alight from the vehicle at a notified halting place ;
- (aa) the requirements which shall be complied with in the construction or use of any duly notified stand or halting place, including the provisions of adequate equipment and facilities for the convenience of all users thereof, the fees, if any which may be charged for the use of such facilities, the records which shall be maintained at such stands or places, the staff to be employed thereat, and the duties and conduct of such staff, and generally for maintaining such stands and places in a serviceable and clean condition ;
- (bb) the regulation of motor cab ranks ;
- (cc) requiring the owners of transport vehicles to notify any change of address or to report the failure of or damage to any vehicle used for the conveyance of passengers for hire or reward ;
- (dd) authorising specified persons to enter at all reasonable times and inspect all premises used by permit-holders for the purposes of their business ;
- (ee) requiring the person incharge of a Stage Carriage to carry any person tendering the legal or customary fare ;
- (ff) the conditions under which and the types of containers or vehicles in which animals or birds may be carried and the seasons during which animals or birds may or may not be carried ;
- (gg) the licensing of and the regulation of the conduct of agents or canvassers who engage in the sale of tickets for travel by public service vehicles or otherwise solicited custom for such vehicles ;
- (hh) the licensing of agents engaged in the business of collecting, or forwarding and distributing goods carried by goods carriers ;
- (ii) the inspection of transport vehicles and their contents and of the permits relating to them ;
- (jj) the carriage of persons other than the driver otherwise than in the body of the goods vehicles ;
- (kk) the records to be maintained and the returns to be furnished by the owners of transport vehicles and
- (ll) any other matter is to be or may be prescribed ;

CHAPTER IV-A

REASONS AND JUSTIFICATION FOR THE PROPOSED CHANGES

Special Provisions Relating to State Transport Undertakings

68-A Definitions.—In this Chapter unless the context otherwise requires—(a) "road transport service" means a service of motor vehicles carrying passengers or goods or both by road for hire or reward; (b) "State Transport Undertaking" means any undertaking providing road transport service, where such undertaking is carried on by—

- (i) the Central Government
- (ii) the State Government
- (iii) any Road Transport Corporation, established under sec. 3 of the Road Transport Corporations Act, 1950 (64 of 1950);
- (iv) any municipality or any corporation or company owned or controlled by the Central Government, or one or more State Government, or by the Central Government and one or more State Governments.

68-B Chapter IV-A to Override Chapter IV and Other Laws

The provisions of this Chapter and the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in Chapter IV of this Act or any other law for the time being in force or in any instrument having effect by virtue of any such law.

No change in the existing provision.

No change.

68-C. 1 Preparation and Publication of Scheme of Road Transport Service of a State Transport Undertaking

Where any State Transport Undertaking is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof, should be run and operated by the State transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State Transport Undertaking may prepare a Scheme giving particulars of the nature of the services proposed to be rendered, during peak-seasons and lean-seasons, as also the area or route proposed to be covered and such other particulars respecting thereto as may be prescribed, and shall after the approval of the State Government to the Said scheme, cause every such scheme to be published in the official gazette and also in such other manner as the State Government may direct.

This provision has been modified to provide that for any draft scheme to be published by the State Transport Undertaking, for nationalisation of route or area, it should be with the prior approval of the State Government. The question of Nationalisation of the route or area for servicing by only the STU is too important a matter to be left to the discretion of the operator even if it be a public sector operator.

Any scope for indiscriminate publication of scheme by STUs has to be prevented.

Provided that no scheme which contravenes the provision contained in the Second proviso to sub. sec (6) of Sec. 68-D shall be published under this section.

68-C. 2 Where the scheme to be published relates to any interstate route, the State Government initiating the scheme of their S.T.U. shall forward a copy of the Gazette to the other concerned State Govts. and the Central Government.

This is a new provision which provides for sending copies of publication of inter-state scheme to the concerned State Govts. and Central Govt. for information, so that appropriate action could be initiated by them, otherwise as has been the experience, there occurs undue time-lag to get clearances and final approval of the scheme.

68-D Objection to the Scheme

(1) On the publication of any scheme in the official gazette and not less than one newspaper in regional language circulating in the area or route which is proposed to be covered by such scheme, any person, association, local authority or police authority interested in this regard may within thirty days from the date of its publication in the official Gazette, file objections to it before the State Government.

The existing provision has been modified so that any person interested may also file objection instead of limiting the sphere to a particular clause only.

2. The State Government may, after considering the objection and after giving an opportunity to the objector or his

No change.

representatives and the representatives of the State Transport Undertaking to be heard in the matter if they so desire, approve or modify the scheme.

(2A) The State Government shall summarily reject any objections received after the prescribed date without considering or giving an opportunity of being heard.

(3) The scheme as approved or modified under sub-sec (2) shall then be published in the Official Gazette by the State Government and the same shall there upon become final and shall be called the approved scheme and the area or route to which it relates shall be called the notified area of notified route. Provided that no such scheme which relates to any Inter-State route shall be deemed to be an approved scheme unless it has the previous approval of the Central Government which shall be in consultation with the concerned State Government and thereafter published in the official gazette of the concerned State simultaneously.

(4). Where in respect of an approved scheme, any State Undertakings, fails to implement the scheme within a period of 12 months reckoned from the date of publication of the draft scheme under sec 68-C, the scheme shall cease to have effect.

(5) Any permit issued by the Transport Authority under Sec 68 (F. 1) and 68 (F. 1. A) shall also cease to be valid from the date from which the approved scheme ceased to be effective and thereafter the provisions of sub sec (2) to (7) of Sec 57 and Sec 48 shall apply.

(6) Any approved scheme which has ceased to be valid under the provisions of sub sec (4) may be republished by State Undertakings and the procedure laid down in Sec 68 (c) to 68-D, shall so far as it can be made applicable be followed in every case as if the proposal were a separate scheme.

Provided that the State Govt. shall accord their approval to the publication of the draft scheme only after satisfying that the State Transport Undertaking has necessary resources to fully implement the scheme and in consultation with STA as to the need or otherwise for augmentation and to the extent to which such augmentation is called for.

Provided further that the State Transport Undertaking shall not resort to the provision of sub sec (6) or publication of any new scheme under sec 68 (c) covering the area, route, or portion thereof of the approved scheme which ceased to be valid under sub sec (4) before the expiry of 3 year.

68-E Cancellation or Modification of Scheme

Any scheme published under sub-section (3) of Section 68-D may at any time be cancelled or modified by State Transport Undertakings and the procedure laid down in Sec-68-C and Section 68-D shall, so far as it can be made applicable, be followed in every case where the scheme is proposed to be cancelled or modified as if the proposal were a separate scheme ;

This is a new provision enabling the Government to summarily reject the belated representation.

The existing provision has been modified. it is felt that the Central Government should consult the concerned State Governments before according approval and that the approved scheme should be published in the Gazette of concerned State Governments.

This is a new provision. It is seen that there are a number of draft schemes pending approval by the concerned State Govts. as also there are instances where the Approved Schemes have not been fully implemented. Even some High Courts have commented on such State of Affairs drawing pointed attention of the need of approving and implementing the Schemes within reasonable time. It is felt that in the normal course once the draft scheme is published, it should be possible to finally approve and implement the same within a period of twelve months.. This time limit is quite pertinent in the light of the provision, separately made, that draft scheme itself should have the prior approval of the State Govt. when it is expected to see and take a view on it from all angles.

The time-limit is considered of essence to avoid disruption and uncertainty of transport services.

It is also proposed that consequent to lapsing of any scheme which would be due to non-approval by the State Govt. and non-implementation by the concerned STU, there should be no re-publishing of that scheme for a period of three years. This step, besides helping the process of quick decision making, is important from the point of view that the private operators who will in the gap in providing services also need to be assured of some certainty of operations for a reasonable time, so that they can make investment in vehicle purchases.

Provided that the State Transport Undertaking may, with the previous approval of the State Government modify without following the procedure laid down in Section 68-C and Section 68-D, any such scheme relating to any route or area in respect of which the road transport services are run and operated by the State Transport Undertaking to the complete exclusion of other persons, in respect of the following matter, namely,—

No Change

- (a) increase in the number of vehicles or the number of trips ;
- (b) change in the type of vehicles without reducing the seating capacity ;
- (c) extension of the route or area without reducing the frequency of the service; or
- (d) alteration of the time-table without reducing the frequency of the service ;

(2) Notwithstanding anything contained in sub-section (1), the State Government may, at any time, if it considers necessary in the public interest so to do, modify any scheme published under sub-section(3) of Sec. 68-D, after giving;

No Change

- (i) the State Transport Undertaking, and
- (ii) any other person who in the opinion of the State Government, is likely to be affected by the proposed modification, an opportunity of being heard in respect of the proposed modification.

No Change

68-F Issue of Permit to State Transport Undertaking

(1) Where, in pursuance of an approved scheme, any State Transport Undertaking applies in such manner as may be prescribed by the State Government in this behalf for a stage carriage permit or a goods carrier's permit or a contract carriage permit in respect of a notified area or notified route the State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case shall issue such permit to the State Transport Undertaking, notwithstanding any thing to the contrary contained in Chapter IV.

No Change

(1-A) Where any scheme has been published by a State Transport Undertaking under Section 68-C, that undertaking may apply for a temporary permit, in respect of any area or route or portion thereof specified in the said scheme for the period intervening between the date of publication of the scheme and the date of publication of the approved or modified scheme and where such application is made, the State Transport Authority or the Regional Transport Authority, as the case may be shall if it is satisfied that it is necessary to increase, in the public interest the number of vehicles operating in such area or route or portion thereof issue the temporary permit prayed for by the State Transport Undertaking.

No Change

Provided that where the STU considers it necessary to operate a vehicle at short notice on a route or area in respect of which the road transport services are normally run and operated by STU to the complete exclusion of other persons, and where there is no time to obtain a permit under sub-section (1-A) of Section 68-F from the Transport Authority, the STU may operate the vehicles and immediately thereafter obtain the temporary permit from Transport Authority within twenty-four hours.

(1-B) A temporary permit issued in pursuance of the provisions of sub-section (1-A), shall be effective.—

- (i) if the scheme is published under sub-sec. (3) of Sec. 68-D, until the grant of the permit to the State Transport Undertaking under sub-section(1) or
- (ii) if the scheme is not published under sub-section (3) of Section 68-D, until the expiration of the one week from the date on which the order under

No Change

No Change

sub-section (2) of Section 68-D is made

(1-C) If no application for a temporary permit is made under sub-section (1-A), the State Transport Authority or the Regional Transport Authority as the case may be, may grant, subject to such conditions as it may think fit, temporary permit to any person in respect of the area or route or portion thereof specified in the scheme and the permit so granted shall cease to be effective on the issue of a permit to the State Transport Undertaking in respect of that area or route or portion thereof.

(1-D) Save as otherwise provided in sub-section (1-A) or sub-section (1-C), no permit shall be granted or varied or extended or curtailed during the period intervening between the date of publication, under section 68-C of any scheme and the date of publication, of the approved or modified scheme in favour of any person for any class of road transport service in relation to an area or route or portion thereof covered by such scheme ;

Provided that where the period of operation of a permit in relation to any area, route or portion thereof specified in a scheme published under Section 68-C expires on, or before, or after, the date of such publication, such permit may be renewed for limited period, but the permit so renewed shall cease to be effective on the publication of the scheme under sub-section (3) of Section 68-D.

(1-E) Where a State Transport Undertaking applies for renewal of a permit within the period specified in sub-section (2) of Section 58, the State Transport Authority or, as the case may be, the Regional Transport Authority, shall, renew such permit, notwithstanding anything to the contrary contained by such scheme ;

(2) For the purpose of giving effect to the approved scheme in respect of a notified area or notified route the State Transport Authority or as the case may be, the Regional Transport Authority concerned may, by order,—

- (a) refuse to entertain any application for the grant or renewal of any other permit or reject any such application as may be pending ;
- (b) cancel any existing permit ;
- (c) modify the terms of any existing permit so as to—
 - (i) render the permit ineffective beyond a specified date ;
 - (ii) reduce the number of vehicles authorised to be used under the permit ;
 - (iii) curtail the area or route covered by the permit in so far as such permit relates to the notified area or notified route.

(3) For the removal of doubts, it is hereby declared that no appeal or revision shall lie against any action taken, or order passed, by the State Transport Authority or any Regional Transport Authority under sub. sec.(1) or sub. sec. (1A) or sub. sec. (2).

(4) Where a State Transport Undertaking considers necessary to operate additional services for the conveyance of passengers on special occasions such as to and from fairs, festivals, and religious gatherings, it shall do so provided that the approval of the transport authority is obtained within twenty-four hours.

68-FF Restriction on Grant of Permits in Respect of notified Area or Notified Route

(1) Where a scheme has been published under sub-section (3) of section 68-D in respect of any notified area or notified route the State Trpt. Authority or the RTA as the case may be, shall not grant any permit except in accordance with the provisions of the scheme.

No Change.

The words "varied, extended or curtailed" have been added to ban the grant of variation also, as it is now interpreted that there is bar in granting only new permits and not variation. Any grant of variation during the pendency of the scheme can actually nullify the scheme.

Courts have held that in all cases of application for renewal, conditioned renewals can be allowed. The existing provision has been suitably amended.

No Change.

No Change.

Since the existing provision bars the filing of only appeals and not the revision petition there have been numerous cases of challenging STA/RTA's decisions through revision petitions. These are unnecessary litigations. It is proposed that revision petitions should also be barred:

This is a new provision. Chapter IV-A does not at present provide for issue of such temporary permits and therefore the STU has to apply and get such permits under Sec. 62. It is felt that STU should be able to operate addl. services according to the need and then come up to the transport authority for approval within twenty-four hours, provision has been made accordingly.

No Change.

Provided that where no application for a permit has been made by the State Transport Undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the condition that such permit shall cease to be effective on the issue of a permit to the State Transport Undertaking in respect of that area or route.

No Change

68-FF (2) POWER OF STATE GOVERNMENT TO DIRECT GRANT OF TEMPORARY PERMITS IN CERTAIN CASES :

If at any time it appears to the State Government that any State Transport Undertaking has failed or is likely to fail to provide adequate road transport service for the carriage of passengers in any notified area or notified route in pursuance of any approved scheme enabling such undertaking to run and operate such service to the complete exclusion of other persons, then notwithstanding anything to the contrary contained in this Chapter or in Chapter IV, the State Government may direct the Regional Transport Authority or the State Transport Authority as the case may be to grant, in respect of such area or route, to other persons such number of stage carriage permits, to be effective for such period as the State Government considers necessary to secure or maintain the adequacy of such service in such area or route and, thereupon, the Regional Transport Authority or as the case may be the State Transport Authority shall, without following the procedure laid down in Section 57, grant such permits to such person as it thinks fit.

There are cases where STUs after competing the processes of nationalisation of particular routes withdrawn their buses causing inconvenience to the travelling public. In order to check this malpractice, this provision is made so that the State Government can issue direction to Transport Authorities, to issue permits to private operators for providing services. The State Government of West Bengal have already through State legislation permitted such a course and is considered appropriate in maintaining adequacy of services on the routes.

68-G PRINCIPLES AND METHOD OF DETERMINING COMPENSATION

(1) Where, in exercise of the powers conferred by clause (b) or clause (c) of sub-section (2) of Section 68-F, any existing permit is cancelled or the terms thereof are modified, these shall be paid by the State Transport Undertaking to the holder of the permit compensation the amount of which shall be determined in accordance with the provisions of sub-section (4) or sub-section (5), as the case may be.

No Change.

(2) Notwithstanding anything contained in sub-section (1), no compensation shall be payable on account of the cancellation of any existing permit or any modification of the terms thereof, when a permit for alternative route or area in lieu thereof, has been offered by the State Transport Authority or the Regional Transport Authority, as the case may be and accepted by the holder of the permit.

No Change.

(3) For the removal of doubts, it is hereby declared that no compensation shall be payable on account of the refusal to renew a permit under clause (a) of sub-section (2) of Section 68-F.

No Change.

(4) Where, in exercise of the powers conferred by clause (b) or sub-clause (i) or sub-clause (ii) of clause (c) of sub-section (2) of Section 68-F, any existing permit is cancelled or the terms thereof are modified so as to prevent the holder of the permit from using any vehicle authorised to be used thereunder for the full period for which the permit would otherwise have been effective, the compensation payable to the holder of the permit for each vehicle affected by such cancellation or modification shall be computed as follows :

No Change.

(a) for every complete month or part of a month exceeding fifteen days of the unexpired period of the permit : two hundred rupees.

(b) for part of a month not exceeding fifteen days of the unexpired period of the permit : One hundred rupees.

Provided that the amount of compensation shall, no case be less than four hundred rupees.

(5) Where, in exercise of the powers conferred by sub-clause (iii) of clause (c) of sub-section (2) of Section 68-F, the terms of an existing permit are modified so as to curtail the area or route of any vehicle authorised to be used thereunder, the compensation payable to the holder of the permit on account of such curtailment shall be an amount computed in accordance with the following formula, namely :—

$$\frac{Y \times A}{R}$$

R
Explanation—In this formula,—

- (i) "Y" means the length or area by which the route or area covered by the permit is curtailed;
- (ii) "A" means the amount computed in accordance with sub-section (4);
- (iii) "R" means the total length of the route or the total area covered by the permit.

68-H PAYMENT OF COMPENSATION :—

The amount of compensation payable under section 68-G shall be paid by the State Transport Undertaking to the person or persons entitled thereto within one month from the date on which the cancellation or modification of the permit becomes effective :

Provided that where the State Transport Undertaking fails to make the payment within the said period of one month, it shall pay interest at the rate of ten per cent per annum from the date on which it falls due.

68-HH DISPOSAL OF ARTICLES FOUND IN VEHICLES:

Where any articles found in any transport vehicle operated by the State Transport Undertaking is not claimed by its owner within the prescribed period the State Transport Undertaking may sell the article in the prescribed manner and the sale proceeds thereof, after deducting the costs incidental to sale, shall be paid to the owner on demand.

68-I POWER TO MAKE RULES

(1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any one of the following matters, namely :

- (a) the form in which any scheme or approved scheme may published under Section 68-C or sub-section (3) of Section 68-D.
- (b) the manner in which objections may be filled under sub-section (1) of Sec. 63-D.
- (c) the manner in which objections may be considered and disposed of under sub-section (2) of Section 68-D ;
- (cc) the manner in which application under sub-section (1) of Section 68-F may be made ;
- (ccc) the period within which the owner may claim an article found left in any transport vehicle under Section 68-HH and the manner of sale of such article ;
- (d) the manner of service of order under this Chapter ;
- (e) any other matter which has to be, or may be, prescribed.

68-J Certain Powers of State Government Exercisable by the Central Government ;

The powers conferred on the State Government under this Chapter shall in relation to corporation or company owned or controlled by the Central Government or by the Central Government and one or more State Governments be exercisable only by the Central Government in relation to an inter-State route or area.

No Change.

No change except in the rate of interest. It is felt that prescribing higher interest will quicken the process of settlement.

No Change.

No Change.

No Change.

**CONSTRUCTION EQUIPMENT AND MAINTENANCE
OF MOTOR VEHICLE****69. General Provision Regarding Construction and Maintenance**

(1) Every motor vehicle shall be so constructed and so maintained as to be at all times under the effective control of the person driving the vehicle.

Existing provision.
No Change.

(2) Every motor vehicle shall be so constructed as to have right hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature.

No Change.

(3) Components used in the vehicle to be of specified Standards :

Any mechanical or electrical equipment, accessories, parts, tyres and tubes used in a motor vehicle in its operation shall conform to such standards, as may be prescribed by the Central Govt. under this chapter and shall be approved by such authority as the Central Government may appoint in this regard.

This is a new provision to provide for quality control and for appointing authorities for approving the quality.

(4). Every motorcycle shall be so constructed as to ensure that the handlebars are not higher than the height of the shoulders of the driver when seated in the normal driving position astride that portion of the seat or saddle occupied by the driver.

This is a new provision to ensure road safety.

(5) Every manufacturer shall emboss the engine number and the chassis number at a few places in the long-member and cross-member of the chassis frame. Every manufacturer or body builder shall also provide a particular place in the body design, to be specified by the Central Government by notification in the official gazette, for reverting the number plate.

This is a new provision. Some of the manufacturers do not emboss the numbers in the chassis, but instead a plate noting the engine no, etc. is secured to the vehicle. The plate can be easily shifted to other vehicle. To avoid this, a new provision is suggested.

(6) Every vehicle manufactured or vehicle on the road shall conform to standards as may be prescribed by the Central Govt. in consultation with the Central Pollution Control Board, to regulate vehicular exhaust emissions such as smoke carbon monoxide, hydro-carbon and oxides of nitrogen.

(7) Every vehicle transporting hazardous material shall conform to such standards in relation to packing and carrying, as may be prescribed by the Central Government.

70. A Power of Central Government may to make rules

Existing provision:

(1) The Central Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to any of the following matters, namely :—

- (a) the width, height, length and overhang of vehicles and of the loads carried ;
- (b) the size, nature and condition of tyres ;
- (c) Brakes and steering gears ;
- (d) the use of safety glass ;
- (e) signalling appliances, lamps and reflectors ;
- (f) speed governors ;
- (g) the emission of smoke, visible vapour, sparks, ashes, grit or oil ;
- (h) the reduction of noise emitted by or caused by vehicles ;

These powers now rested with the States are proposed to be given to the Central Govt. for purpose of uniformity.

(2) Rules may be made under sub-section (1) governing the matters mentioned therein either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or in particular circumstances.

Existing provision.

(3) The Central Government may make rules evolving and laying down—

- (a) the standards, specifications and norms in respect of critical components of motor vehicles ;
- (b) the standards specifying in-built safety, the standards for devices to control air-and-noise pollution to be observed at the level of manufacture of vehicles and also for institutional mechanism for certification compliance of the standards so laid down, before the motor vehicle is registered under sec. 22.
- (c) Standards specifying smoke emission levels.
- (d) regulations for transportation of hazardous substances covering *inter alia*, the aspect such as :
 - (i) display of pictorial hazard warning symbols in the transport carriers containing hazardous substances ;
 - (ii) transport emergency cards to guide the drivers to deal with accidents, spillage or fire ;
 - (iii) carriage of booklets containing instructions in writing in respect of specific chemicals being transported ;
 - (iv) display of correct chemical name and code number assigned to the chemicals ;
 - (v) directives as to which chemicals should not be transported together ;
 - (vi) restrictions for parking and driving of vehicles containing hazardous substance ; and
 - (vii) Packaging of hazardous material to be transported containers for liquid chemicals, and
 - (viii) any other related matter (4) The provisions of (a) and (b) of sub-section (3) shall not apply to imported motor-vehicles.

(5) Where the Central Government considers necessary, or expedient so to do, the rules may provide for delegation to the State Government or State Transport Authority of such powers as the Central Government may think fit.

(6) Central Government may exempt any motor vehicle or any class of motor vehicles from the operation of provision of this chapter subject to such condition as it deem fit.

70B. Power to make rules

(1) The State Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers (with respect to all matters other than the matters referred to in Section 70-A.).

(2) Without prejudice to the generally of the foregoing power, rules may be made under this section governing any of the following matters, either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of particular circumstances namely—

- (a) Seating arrangement in public service vehicles and the protection of passengers against the weather ;
- (b) prohibiting or restricting the use of audible signals at certain times or in certain places ;
- (c) prohibiting the carrying of appliances likely to cause annoyance or danger ;
- (d) the periodical testing and inspection of vehicles by prescribed authorities ;
- (e) the particulars other than registration marks to be exhibited by vehicles and the manner in which they shall be exhibited ;
- (f) the use of trailers with motor vehicles ; and
- (g) any other matter related to safety and pollution control.

This is to enable Central Govt. to lay down specification for spare parts to ban spurious parts being sold taking road safety aspect in to consideration.

This is a new provision to control pollution, noise and air, and to ensure in-built safety in motor vehicles. Though certification is done now by certain establishment on the prototype, it is now brought under the provision of the Act to have a statutory backing.

This is a new provision to exclude imported vehicles.

There is no provision now to delegate the powers of Central Government to State Government. This provision takes care of this aspect.

This is a new provision. It is felt that the Central Government should have this power in the interest of administration.

Existing provision.

The powers in clause (d) to (i) of existing sub. sec (2) of Sec. 70 have been transferred from the State to Central Government for uniformity.

CHAPTER VI

REASON AND JUSTIFICATION FOR THE PROPOSED CHANGES

CONTROL OF TRAFFIC

71. Limits of Speed

(1) No person shall drive a motor vehicle or cause or allow a motor vehicle to be driven in any public place at a speed exceeding the maximum speed fixed for the vehicle by or under this Act or by or under any law for the time being in force :

No change in the existing provisions.

Provided that such maximum speed shall in no case exceed the maximum fixed for the vehicle in the second schedule.

No change.

(2) The State Government or any authority authorised in this behalf by the State Government may, if satisfied that it is necessary to restrict the speed of motor vehicles in the interests of public safety or convenience or because of the nature of any road or bridge, and by causing appropriate traffic signs to be placed or erected under Section 74 at suitable places, fix such maximum speed limits as it thinks fit for motor vehicles or any specified class of Motor Vehicle or for Motor Vehicles to which a trailer is attached either generally or in a particular area or on a particular road or roads :

No change.

(3) Nothing in this section shall apply to any vehicle registered under Section 39 while it is being used in the execution of military manoeuvres within the area and during the period specified in the notification under sub-section (1) of Section 2 of the manoeuvres, Field Firing and Artillery Practice Act, 1938 (5 of 1938).

(4) Minimum Speed Regulation

No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation of his vehicle or in compliance with law.

The existing law provides only for the maximum speed limits. It is the experience that drivers cruise and move vehicles so slowly as to create obstructions on busy thoroughfares. Enabling provision to lay down minimum speed limits therefore has been suggested.

72. Power to Restrict the weight and limit use of Vehicle

The State Government or any authority authorised in this behalf by the State Government, if satisfied that it is necessary in the interests of public safety or convenience, or because of the nature of any road or bridge, may by notification in the Official Gazette, prohibit or restrict, subject to such exceptions and conditions as may be specified in the notification, the driving of motor vehicle or of any specified class of motor vehicles or the use of trailers either generally in a specified area or on a specified road and when any such prohibition or restriction is imposed, shall cause appropriate traffic signs to be placed or erected under Section 74 at suitable places :

In view of the similarity in the existing sections 72 and 74, they are combined in one section and at the same time referring to Section 36, relating to weight-limits for transport vehicles.

Provided that where any prohibition or restriction under this section is to remain in force for not more than one month, notification thereof in the official Gazette, shall not be necessary, but such local publicity as the circumstances may permit, shall be given of such prohibition or restriction.

Provided further that the State Government may prescribe conditions for issue of permit for heavy goods vehicles or heavy passenger motor vehicles in excess of limitation of GVW/RLW in sub-section (1) above, in exceptional causes, subject however to the provisions of Section 36.

73. *Offices to Weigh Vehicles and Require Removal of Excess Loads*

(1) Any person authorised in his behalf by the State Government may, if he has reason to believe that a goods vehicle or a trailer is being used in contravention of Section 72 require the driver to convey the vehicle to a weighing device tested and approved by Weights and Measures Dept. if any, within a distance of 5 kilometers from any point on the route of the vehicle for weighment and if on such weighment the vehicle is found to contravene in any respect the provisions of Section 72 regarding weight, he shall require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the weight of the vehicle to the limit permitted under the terms of a permit issued. All material so unloaded shall be cared for by the owner or driver of the vehicle at the risk of such owner or driver.

According to the existing provision, the excess load is to be removed to a place where facilities exist for the safe custody of goods. But no such facilities exist anywhere since no State seems to have framed rules under clause (cc) of sub-section (2) of existing Section 91. Further unless the responsibility of taking care of the unloaded goods is fixed on the person in charge of the vehicle at his own risk, the menace of over-loading cannot be put to a stop to, which has to be done in the interest of road safety. Hence, the provision is modified suitably to provide for excess-load to be unloaded at the spot of checking and that it will be at the risk of owner of the vehicle, who is presumed to have permitted over-load, and wilfully violated the regulations.

74. *Power to Erect Traffic Signs*

(1) The State Government or any authority authorised in this behalf by the State Government may cause or permit traffic signs to be placed or erected in any public place for the purpose of bringing to public notice any speed limits fixed under sub-section (2) of Section 71 or any prohibitions of restrictions imposed under Section 72, or generally for the purpose of regulating motor vehicle traffic.

No change in the existing provision.

(2) Traffic signs erected under sub-section (1) for any purpose for which provision is made in third schedule shall be of the size, colour and type painted with reflectorising paints and shall have the meanings set forth in the Third Schedule, but the State Government or any authority empowered in this behalf by the State Government may make or authorise the addition to any sign set forth in the said Schedule, of transcriptions of the words, letters or figures thereon in such script as the State Government may think fit, provided that the transcriptions shall be of similar size and colour to the words, letters or figures set forth in the Third Schedule.

No change except that the Traffic signs shall be painted with reflectorising paints.

Sub-sec (3) has been omitted as it is redundant.

(3) A State Government may, by notification in the Official Gazette, empower any Superintendent of Police or the Commissioner of Police as the case may be, to remove or cause to be removed any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from the view or any advertisement which is in his opinion, so similar in appearance to a traffic sign, as to be misleading, or any such sign which in his opinion, will distract the concentration of the driver.

This is a reproduction of existing sub-sec (4) with the following addition namely "or any such sign which in his opinion will distract the concentration of the driver". As it is felt that Police officers are the appropriate authorities to check obstructions to traffic signs, the Magistrate need not be burdened with this and hence reference to 'Magistrate' is removed.

74 (4) No person shall wilfully remove, alter, deface, damage, injure, destroy, mutilate or in any way tamper with, any traffic signs placed or erected under this Section.

This is an existing sub-sec (5). The words "damage, injure, destroy, mutilate" have been included.

(5) If any person accidentally causes damage to a traffic sign as renders it useless for the purpose for which it is placed or erected under this section, he shall report the circumstances of occurrence to a police officer or at a police station as soon as possible, and in any case within twenty-four hours of the occurrence.

Existing provision under sub-sec. (6).

(6) For the purpose of bringing the signs set forth in the Third Schedule in conformity with any International Convention relative to motor traffic to which the Central Government is for the time being a party, the Central Government may, by notification in the Official Gazette make any addition or alteration to any such sign and on the issue of any such notification, the Third Schedule shall be deemed to be amended accordingly.

Existing provision under sub-sec. (7).

75. *Parking Places and Halting Stations*

The State Government or any authority authorised in this behalf by the State Government may, in consultation with the local authority having jurisdiction in the area concerned, determine places at which motor vehicles may stand either indefinitely or for a specified period of time, and determine the places at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers.

76. *Duty to Obey Traffic Signs*

(1) Every driver of a motor vehicle shall drive the vehicle in conformity with any indication given by a traffic sign or traffic light and in conformity with the driving regulations in the Traffic code as may be prescribed by the Central Government, and shall comply with all directions given to him by any police officer for the time being engaged in the regulation of traffic in any public place.

77. *Leaving Vehicle in Dangerous Position*

No person in charge of a motor vehicle shall cause or allow the vehicle or any trailer to remain at rest on any road in such a position or in such a condition or in such circumstances as to cause or be likely to cause danger, obstruction or undue inconvenience to other users of the road.

77.A No person driving or in charge of a Public Service Vehicle shall abandon the vehicle on the road without adequate reason with a view to causing inconvenience to the passengers and to other users of the road.

77B. No person driving a motor vehicle shall allow by person to stand or sit or anything to be placed in such a manner or position as to hamper the driver in his control of the vehicle.

78. *Removal of Motor Vehicles or other Vehicles Towing or Hauling Away*

(1) Where any motor vehicle is abandoned, or left unattended, on a public road for ten hours or more, its removal by a towing service may be authorised by a law enforcement agency having jurisdiction.

(2) Where an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impediment to the traffic, its immediate removal from the highway by a towing service may be authorised by a law enforcement agency having jurisdiction.

(3) Where a vehicle is authorised to be removed as per sub-section (1) and (2) by a law enforcement agency the owner of the vehicle shall be responsible for all towing costs, besides any other penalty.

79. *Riding on Running Board*

No person shall travel on the running board or otherwise than within the body of the vehicle and no person driving or in charge of a motor vehicle shall carry any person or permit any person to be carried on the running board or otherwise than within the body of the vehicle.

80. *Prohibition against Travelling Without Pass or Ticket*

No person shall enter or remain in any stage carriage for the purpose of travelling therein unless he has with him a proper pass or ticket.

Existing sec. 76 re-numbered as 75.

Existing sec. 77 has been omitted as there is no need to notify any road as main road in the Official Gazette and it is enough that the Main Road is indicated by way of suitable sign boards, as notification is not going to serve any particular purpose.

Existing Sec. 78 is renumbered as 76 with addition of word "traffic light" and "Traffic Code".

Existing Sec. 81 re-numbered as 77.

This is a new provision. It has become the practice of drivers of Public Service Vehicle to strike work abandoning their vehicles on the road, blocking the traffic. This new provision will act as a check against such illegal acts.

Existing Sec. 83.
No change.

This is a new provision. At present owners of such abandoned or unattended vehicles take their own time to remove the vehicles. This provision is to create a responsibility on the owner. The towing of the vehicle by person as may be authorised by the State Government is provided for and the owner shall be required to pay the costs.

This is a modification to the existing sec. 82 so as to make foot-board travellers also punishable.

Provided that where arrangement for the supply of tickets are made in the stage carriage by which a person has to travel, a person may enter such stage carriage but as soon as may be after his entry therein, he shall make the payment of his fare to the conductor or the driver who discharges the function of a conductor on demand and obtain from such conductor or driver, as the case may be, a ticket for his journey.

Explanation : In this section :—

- (a) "pass" means a duty, privilege or courtesy pass entitling the person to whom it is given to travel in a stage carriage gratuitously and includes a pass on payment for travel in a stage carriage for the period specified therein;
- (b) "ticket" includes a single ticket a return ticket or a season ticket.

81. *Pillion Ridings*

No driver of a two-wheeled motor cycle shall carry more than one person in addition to himself on the cycle and no such person shall be carried otherwise than sitting on a proper seat securely fixed to the cycle behind the driver's seat and equipped with permanent hand grip on the seat or saddle and also with foot rests adjusted to fit such person.

82. *Required Equipment on Motor Cycles*

No person shall drive any motorcycle with handlebars higher than the height of the shoulders of the driver when seated in the normal driving position astride that portion of the seat or saddle occupied by the driver.

83. *Wearing of Protective Headgear*

The State Government may prescribe by rules, the wearing of protective headgears conforming to ISI standard by a person driving or riding (otherwise than in a side car) on a motorcycle of any class in a public place.

The existing provision under Sec. 82-A is re-numbered as 80. The words "on demand" are included making the conductor equally responsible for issue of a ticket.

The existing provision in Sec. 85 is suitably modified for clarity.

This is a new provision as one of the safety regulation.

The existing provisions have been modified.

In the re-arrangement, the existing Section 85-A has been re-numbered Section 83.

As against the present provisions where the Central Govt. is vested with powers to prescribe rules for compulsory wearing of helmets, it is proposed that this could appropriately be done by the State Govts. keeping in view the local conditions. Despite insertion of provisions by Act 27 of 1977, it has remained unimplemented for reasons of differences of opinions in regard to the categories of persons that can be exempted from compulsory wearing of helmets, as also due to different views as to whether putting on helmets is safe and effective etc. Certain State Govts/UT Adms. have however under their general rule-making powers made helmet-wearing compulsory, and reportedly with good results. It is proposed that instead of the Central Govt. making the rules for this purpose, the State Govts. may be specifically empowered to do so keeping in view local traffic requirements.

84. *Headset Receiver*

(a) No driver of a motor vehicle on the public road shall wear headset receivers while driving.

(b) This Section does not prohibit the use of a headset type receiving equipment used exclusively for safety or traffic engineering studies or by law enforcement personnel on duty.

This is a new provision. Many motorists now wear this equipment while driving which is dangerous to public safety.

85. *Prevention of Noise Pollution & Air Pollution*

(a) Every motor vehicle driven or operated upon the highways shall at all times be equipped with an adequate muffler or exhaust system in constant operation and properly maintained to prevent any excessive or unusual noise. No such muffler or exhaust system shall be equipped with cut-out by pass or similar device. No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise of such vehicle above that emitted by the muffler originally installed on the vehicle and such original muffler shall comply with all the requirements of this section.

(b) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn, or other warning device shall emit an unreasonable loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to ensure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(c) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this sub-section. Any authorised emergency vehicle as defined in Chapter 1 of this Act may be equipped with a siren, whistle, or bell, from a distance of not less than 500 feet, but such siren, whistle or bell, shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law in either of which events the driver of such vehicle shall sound such siren, whistle or bell, when necessary to warn pedestrians and other drivers of the approach thereof.

86. *Duty to Produce Licence and Certificate of Registration*

(1) The driver of a motor vehicle in any public place shall, on demand by any police officer not below the rank of a sub-inspector of police in uniform, produce his licence for examination :

Provided that the driver may, if his licence has been submitted to any officer or authority under this or any other Act, produce in lieu of the Licence or other acknowledgement issued by such an officer or authority in respect thereof and thereafter within ten days produce the licence or send a copy of the licence duly attested by a Sub-Inspector of any Police Station, to the police officer making the demand.

(2) The conductor, if any, of a motor vehicle in any public place shall, on demand by any police officer in uniform produce his Authorisation for examination.

(3) The owner of a motor vehicle other than a vehicle registered under Section 39, or in his absence the driver or other person in charge of the vehicle, shall on demand by a registering authority or any person authorised in this behalf by the State Government produce the certificate of registration of the vehicle and, where the vehicle is a transport vehicle, the certificate of fitness referred to in Section 38.

86. (4) If the Authorisation referred to in sub-section (2) or the certificates referred to in sub-section (3), as the case may be, are not at the time in the possession of the person to whom demand is made, it shall be sufficient compliance with this section if such person within ten days, produce the Authorisation or send a copy of the documents duly attested by a Sub-Inspector of any police station to authority making the demand :

Provided that, except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to any person required to produce the certificate of registration or the certificate of fitness of a transport vehicle.

This is a new provision. It has been the common experience that the mufflers of motor vehicles are tampered with, as a consequence of which the noise created on roads cause distraction to the drivers of other vehicles and road users.

Similarly multitoned horns are also commonly used. To prevent this misuse the provision is proposed.

The existing Sec. 86 has been modified to the following extent.
(a) that the demand for production of document should be made only by a Police Officer not below the rank of Sub-Inspector.

(b) In the event of documents not readily in possession these are required to be produced within ten days. In that case the present provision allows showing of document to any police station. But this is too loose and an ineffective provision. Instead of producing the documents to any police station in India which is not workable it is laid down that the documents attested by a S.I. of Police may be sent to the Police Officer making the demand.

87. *Duty of Driver to Stop in Certain Cases*

(1) The driver of a motor vehicle shall cause the vehicle to stop and remain stationary so long as may reasonably be necessary—

- (a) When required to do so by any police officer not below the rank of a sub-Inspector of Police in uniform or
- (b) when required to do so by any person in charge of an animal if such person apprehends that the animal is or being alarmed by the vehicle, will become, unmanageable, or
- (c) When the vehicle is involved in the occurrence of an accident to a person, animal or vehicle or of damage to any property whether the driving or management of the vehicle was or was not the cause of the accident or damage, and he shall give his name and address and the name and address of the owner of the vehicle to any person affected by any such accident or damage who demands it provided such person also furnished his name and address.

(2) The driver of a motor vehicle shall, on demand by a person giving his own name and address and alleging that the driver has committed an offence punishable under Section 116, give his name and address to that person.

(3) In this section the expression 'animal' means any horse, elephant, camel, ass, mule, sheep or goat.

87. *Duty of Driver in case of Accident and Injury to a Person*

(1) Motor Vehicle accidents involving death or personal injuries or damage to any property of a Third Party (a) The driver of any vehicle involved in a motor vehicle accident resulting in injury to or death of any person or damage to property of a Third Party shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible and shall then forthwith return to, and in every event shall remain at the scene of the accident until the requirements of this Section have been fulfilled. Every such stop shall be made without obstructing traffic more than is necessary.

(2) Any person who has failed to stop or to comply with said requirements shall, within 48 hours after such motor vehicle accident, or, if hospitalized and incapacitated from reporting at any time during such period, within 48 hours of the accident, give information about the date, the approximate time, the driver's name and address, the registration number of the vehicle driven, and the names of all other occupants of such vehicle, at a police station near the place where such accident occurred. No report made as required under this paragraph shall be used, directly or indirectly, as a basis for the prosecution of any violation of paragraph (1).

3. *Duty to give Information and Render aid*

When any person is injured or any property of a third party is damaged as a result of an accident in which a motor vehicle is involved the driver of the vehicle or other person in-charge of the vehicle shall give on demand by a Police Officer any information required by him and shall render to any person injured in such accident reasonable assistance including the carrying of such person to a physician, surgeon or hospital for such treatment as is necessary or if such carrying is requested by the injured person. If none of the person entitled to information pursuant to this section is in a condition to receive and understand such information and no police officer is present, such driver after rendering reasonable assistance shall not forthwith report such motor vehicle accident at the nearest Police Station, disclosing the information required by this Section.

No change in the existing section except that the power is proposed to be conferred on a police officer not below the rank of S.I. of Police.

Existing section 89 is re-numbered as 87A and amplified. Many drivers are not aware of their duties when the vehicles which are driven by them are involved in accidents. An effort has been made to bring out in details the duties and responsibilities of the drivers under such circumstances. Taking the injured to hospital, stopping the vehicle in a position as not to obstruct free flow of traffic, report the accident to the police, give information to the injured as to the details of the name & address of the owner of the vehicles, Insurance particulars of the vehicles, his Driving Licence Number, etc., are some of the particulars highlighted in this Section.

(4) When a driver fails to report a Motor Vehicle Accident

Whenever the driver of a vehicle is physically incapable of marking ■ required written accident report and if there was another occupant in this vehicle at the time of the motor vehicle accident capable of making a written report such occupant shall make or cause to be made such written report. If said driver fails for any reason to make report on the motor vehicle accident, shall, as soon as practicable, make said report to the administrator.

88. Duty of owner of Motor Vehicle to give Information

The owner of ■ motor vehicle the driver or conductor of which is accused of any offence under this Act shall, on her demand of any police officer not below the rank of sub-inspector of Police in Uniform authorised in this behalf by the State Government, give all information regarding the name and address of and the licence held by the driver or conductor which is in his possession or could by reasonable diligence be ascertained by him.

No change except that the powers shall be exercised only by an officer not below the rank of a S.I. of police.

88-A. Inspection of Vehicle involved in Accident

When any accident occurs in which a motor vehicle is involved, any person authorised in this behalf by the State Government may, on production if so required of his authority, inspect the vehicle and for that purpose may enter at any reasonable time any premises where the vehicle may be and may remove the vehicle for examination.

This is the existing provision in Sec. 90.

Provided that the place to which the vehicle so removed shall be intimated to the owner of the vehicle and vehicle shall be returned without unnecessary delay.

88.B. The transport department at its discretion may also provide for indepth investigations of a motor vehicle accident by individuals or special investigation groups, including but not limited to police officers, photographers, engineers, doctors, mechanics, and as a result of the investigation may require the submission of written report photographs, charts, sketches, graphs, or a combination of all. Such individual written reports, photographs, charts, sketches or graphs may be used only for accident studies and statistical or analytical purposes, shall be for privileged use of the department and held confidential, and shall not be used in any trial, civil or criminal.

This is ■ new provision to provide for indepth studies of accident cases and the result of which may be useful in prevention of accidents.

89 Establishment of Wayside Amenities Complexes

The State Government shall establish or cause to establish wayside amenities complexes, at suitable location on State & National highways, to provide amenities consisting of parking lots for vehicles, resting houses, cafetaria, fuel station, and other necessities to meet the urgent requirements of a drivers and other road-users.

This is a new provision. While one aspect of "control of traffic" is to regulate operations by checking violations, the other and equally important aspect is to create conditions whereby possibilities of violations are reduced/eliminated. One such step is to provide for amenities to drivers. The fatigue of the driver is one of the major causes of accidents. If wayside amenities are there, the driver can take rest whenever they feel so, and attend to their vehicles.

90. Traffic Control on Highways and other Roads

A. The State Government shall, for the purpose of regulating traffic on national and State highways, establish Traffic Aid posts, at ■ distance of every 50 to 60 kms. as may be convenient for operation and consisting of suitable manpower with adequate equipment, to discharge the twin functions of traffic patrol in the area under the jurisdiction of the concerned TAP and also in the event of any road accident, to flash the news to the State Control room, to provided first aid to the injured to take the seriously injured to the nearest medical, centre and such other functions as may be prescribed by the State Government.

This is a new provision. The fact of sheer police presence on highways has been found to contribute to the maintenance of disciplined road traffic. The need for Highway patrolling and establishment of traffic-aid-posts are important, particularly in the context of growing traffic. At present no police-men or other law enforcement Agency could be found on the Highways for miles together. Establishment of such posts will help to maintain discipline on the drivers besides being helpful to persons involved in accidents.

90.B. Obstructing Person on Highways

No person shall wilfully and unnecessarily hinder, obstruct or delay, or wilfully and unnecessarily attempt to delay, hinder to obstruct any other person in lawfully driving or travelling along or upon any highway within this State or offer for barter or sale merchandise on the said highway so as to interfere with the effective movement of traffic.

This is a new provision. Motorists are now put to a lot of inconveniences, by wayside vendors and traders. No action against them can be now taken without any provision to seek remedy. Hence the provision.

91. Power to make Rules

1. The State Government may make rules for the purpose of carrying into effect the provisions of this chapter.

Existing list has been added to cover new provisions of control of traffic.

2. Without prejudice to the generality of the foregoing power, such rules may provide for :

- (a) the removal and the safe custody of vehicles including their loads which have broken down or which have been left standing or have been abandoned on roads empowering officers to order such removal, and the recovery of cost of removal from the owner or driver in charge of such vehicles;
- (b) the installation and use of weighing devices;
- (c) the exemption from all or any of the provisions of this Chapter of Fire Brigade vehicles, ambulances and other special classes of vehicle, subject to such conditions as may be prescribed ;
- (d) the maintenance and management of parking places and stands and the fees, if any which may be charged for their use;
- (e) prohibiting the driving down hill of a motor vehicle with the gear disengaged either generally or in a specified place;
- (f) prohibiting the taking hold of or mounting of a motor vehicle in motion;
- (g) generally, the prevention of danger, injury, or annoyance to the public or any person, or of danger or injury to property or of obstruction to traffic ; and
- (h) Rule regarding wearing of protective headgears by person driving, or riding motor cycle;
- (i) prohibiting the use of foot-paths or pavements by motor vehicles;
- (j) regarding establishment of wayside amenities camps, their maintenance fees to be charged and other allied matters.
- (k) regarding establishment of Traffic Aid posts, empowering officers to man such posts, equipments to be supplied to these posts and connected matters;
- (l) Any other matter which is to be or may be prescribed.

CHAPTER VII

REASON AND JUSTIFICATION FOR THE PROPOSED CHANGES

Motor Vehicles Temporarily Leaving or Visiting (India)

92. Power of Central Government to Make Rules

(1) The Central Government may by notification in the Official Gazette, make rules for all or any of the following purposes namely :—

No change in the existing provisions.

- (a) the grant and authentication of travelling passes, certificates or authorisations to persons temporarily taking motor vehicles out of India to any place outside India or to persons temporarily proceeding out of India to any place outside India and desiring to drive a motor vehicle during absence therefrom India;
- (b) prescribing the conditions subject to which motor vehicles brought temporarily into India from outside India by persons intending to make temporary stay in India may possess and use in India; and
- (c) Prescribing the conditions subject to which persons entering India from any place outside India for a temporary stay in India may drive motor vehicles in India.

(1-A) For the purpose of facilitating and regulating the services of motor vehicles operating between India and any other country under any reciprocal arrangement and carrying passengers or goods or both by road for hire or reward the Central Government may by notification in the Official Gazette, make rules with respect to all or any of the following matter, namely :—

- (a) the conditions subject to which motor vehicles carrying on such services may be brought into India from outside India and possessed and used in India;
- (b) the conditions subject to which motor vehicles may be taken from any place in India to any place outside India;
- (c) the conditions subject to which persons employed as drivers and conductors of such motor vehicles may enter or leave India;
- (d) the grant and authentication of travelling passes, certificates or authorisations to persons employed as drivers and conductors of such motor vehicles;
- (e) the particulars (other than registration marks) to be exhibited by such motor vehicles and the manner in which such particulars are to be exhibited;
- (f) the use of trailers with such motor vehicles;
- (g) The exemption of such motor vehicles and their drivers and conductors from all or any of the provisions of this Act other than those referred to in sub-section (4) or of the rules made thereunder;
- (h) the identification of the drivers and conductors of such motor vehicles;

- (i) the replacement of the travelling passes, certificates or authorisations, permits licenses or any other prescribed documents lost or defaces, on payment of such fee as may be prescribed.
- (j) the exemption from the provision of such laws as relate to customs, police or health with a view of facilitate such road transport services;
- (k) any other matter which is to be, or may be, prescribed.

92. (2) No rule made under this section shall operate to confer on any person any immunity in any State from the payment of any tax levied in that on motor vehicles or their users.

93 (2) Nothing in this Act or in any rule made thereunder by a State Government relating to :

- (a) the registration and identification of motor vehicles, or
- (b) the requirements as to construction, maintenance and equipment of motor vehicles; or
- (c) the licensing and the qualifications of drivers and conductors of motor vehicles, shall apply
 - (i) to any motor vehicle to which or to any driver of a motor vehicle to whom any rules made under clause (b) or clause (c) of sub-section (1) or under sub-section (1-A) apply;
 - (ii) to any conductor of a motor vehicle to whom any rules made under sub-section (1-A) apply.



THE ACT

CHAPTER VIII

REASON AND JUSTIFICATION FOR THE PROPOSED CHANGES

REASON AND JUSTIFICATION FOR THE PROPOSED INSURANCE OF MOTOR VEHICLES AND ADJUDICATION OF CLAIM FOR COMPENSATION IN RESPECT OF ACCIDENT CAUSED BY MOTOR VEHICLES

93. Definitions—In this Chapter :

- (a) "authorised insurer" means an insurer for the time being carrying on general insurance business in India as per the General Insurance Business (Nationalisation) Act 1972 (Act 57 of 1972) and any Government Insurance Fund authorised to do general insurance business ;
- (b) "certificate of insurance" means a certificate issued by an Authorised insurer in pursuance of sub-section (4) of Section 95 carrying the liabilities under this chapter in the form that may be prescribed by the Central Government by notification in the Official Gazette;
- (c) 'liability' wherever used in relation to the death of or bodily injury to any person includes liability in respect thereof under Section 87;
- (d) 'property' includes roads, bridges, culverts, causeways, trees, posts and mile stones;
- (e) 'reciprocating country' means any such country as may on the basis of reciprocity be notified by the Central Government in the Official Gazette to be a reciprocating country for the purposes of this Chapter;
- (f) 'third party' includes the Government.

The existing definition is modified as the general insurance business has been nationalised.

The existing provision is modified to provide for specifying by notification the Form of Certificate and the Policy of Insurance, rather than making the Form a part of the Act.

No change.

No change.

No change.

No change.

94. Necessity for Insurance Against Third Party Risk

(1) No persons shall use except as a passenger or cause or allow any other person to use a motor vehicle in a public place or in any other place unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of this Chapter.

Explanation—A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.

(2) Sub-section (1) shall not apply to any vehicle owned by the Central Government and used for Government purposes unconnected with any commercial enterprises.

(3) The appropriate Government may, by order, exempt from the operation of sub-section (1) any vehicle owned by any of the following authorities, namely :—

- (a) the Central Government or a State Government, if the vehicle is used for Government purpose connected with any commercial enterprise;
- (b) any local authority;
- (c) any State transport undertaking within the meaning of Section 68-A :

Only one change in the existing provision is made by inclusion of the word "in any other place". At present if a vehicle is not used in public place there is no need to insure the vehicle. The distinction between a private place and public place in so far as running a motor vehicle is concerned is not proper. But every vehicle has to be registered under Sec. 22 and every driver should have a driving licence. As such there seems to be no reason why vehicles operating on private places like tea-estate, project area, be exempted from insurance. Further accidents can happen in private place also. Hence there is need for this modification.

Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in accordance with the rules made in that behalf under this Act for meeting any liability arising out of the use of any vehicle of that authority which that authority or any person in its employment may incur to third parties.

Explanation—For the purpose of this sub-section, appropriate Government means the Central Government or the State Government, as the case may be and—

- (i) in relation to any corporation or company owned by the Central Government or any State Government means the Central Government or that State Government;
- (ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;
- (iii) in relation to any other State Transport Undertaking or any local authority, means Government which has control over that Undertaking or authority.

95. Requirements of Policies and Limits of Liability

(1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which—

- (a) is issued by an authorised insurer, and
- (b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)—
 - (i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;
 - (ii) against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place :

Provided that a policy shall not be required—

- (i) to cover liability in respect of the death arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an employee arising out of and in the course of his employment other than a liability arising under the Workmen's Compensation Act 1923 (8 of 1923), in respect of the death of, or bodily injury to any such employee—
 - (a) engaged in driving the vehicle, or
 - (b) if it is a public service vehicle, engaged as a conductor of the vehicle or in examining tickets on the vehicle, or
 - (c) if it is a good vehicles, being carried in the vehicle.
- (ii) to cover any contractual liability.

Explanation—For the removal of doubts, it is hereby declared that the death of or bodily injury to any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of the use of a vehicle in a public place notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place,

The reference to co-operative society in the existing provision has been deleted as such Societies are not authorised to do general insurance business after the nationalisation of general insurance business.

No Change.

Existing (ii) proviso to sub-sec. (1) of Sec. 95 has been deleted and sub-clause (iii) has been re-numbered as (ii). In terms of the present provision of Sec. 95 by interpretation and implication certain categories of person such as gratuitous passengers in a private car, hirer of a truck or owner of goods travelling in a Truck carrying his goods etc., are excluded from the liability of the insurer. The Law Commission has recommended the removal of such exclusion by omitting the (ii) proviso to sub. sec (1) of Sec. 95 in order to obviate the circumstances leading to repudiation of a claim by the Insurers.

No Change.

(2) Subject to the proviso to Sub-section (1) a policy of insurance shall cover any liability incurred in respect of any one accident up to the following limits, namely—

- (2) Subject to the proviso to Sub-section (1) a policy of lakh fifty thousand rupees in all including the liabilities, if any, arising under the Workmen's Compensation Act, 1923 (98 of 1923), in respect of the death of, or bodily injury to, employees (other than the driver), not exceeding six in number, being carried in the vehicle;
- (b) where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment;
 - (i) in respect of persons other than passengers carried for hire or reward, a limit of one lakh fifty thousand rupees in all;
 - (ii) in respect of passengers, a limit of fifteen thousand rupees for each individual passengers;
- (c) save as provided in clause (d), where the vehicle is a vehicle of any other class the amount of liability incurred;
- (d) irrespective of the class of the vehicle a limit of rupees six thousand in all in respect of damage to any property of a third party.

Explanation—For the removal of doubt it is declared that the expression "in all" appearing in clause (a) & (b) (i) means the total liability arising out of an accident involving a motor vehicle.

(4) A policy shall be of not effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate of insurance in the prescribed form and containing the prescribed particulars of any conditions subject to which the policy is issued and of any other matters and different forms, particulars and matters may be prescribed in different cases.

(4-A) where a cover note issued by the insurer under the provisions of this Chapter or rules made thereunder is not followed by a policy of insurance within the prescribed time, the insurer shall, within seven days of the expiry of the period of the validity of the cover note, notify the fact to the registering authority in whose records the vehicle to which the cover note relates has been registered or to such other authority as the State Government may prescribe.

(5) Notwithstanding anything elsewhere contained in any law, an insurer issuing a policy of insurance under this section shall be liable to identify the person or classes of person specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of person.

96. *Validity of Policies of Insurance issued in Reciprocating Countries :*

Where, in pursuance of an arrangement between India and any reciprocating country, any motor vehicle registered in the reciprocating country operates on any route or within any area common to the two countries and there is in force in relation to the use of the vehicle in the reciprocating country, a policy of insurance complying with the requirements of the law of Insurance in force in that country, then, notwithstanding anything contained in Section 95 but subject to any rules which may be made under Section 111, such policy of insurance shall be effective throughout the route or area in respect of which the arrangement has been made, as if the policy of insurance had complied with the requirements of this Chapter.

In the case of Motor Owners V/s Kesharji Jadharji Mody as reported in 1981 Act 506, the Supreme Court has ruled that the limit prescribed in the Act applies to per person as each person is to be treated as a separate accident. The existing provision had laid down limits adding the words "in all", thereby making the intention clear that the monetary limits prescribed represented total liability of the insurance company. Keeping in view the judgement of the Supreme Court, the intention of the Legislature has to be made clear by adding an explanation.

The stipulating of the limits of insurance liability does not mean limiting the amount of claims.

No change.

No change.

The only change effected is that the word "person" has been replaced by the word "insurer". This is because of the fact that after nationalisation of general insurance business no person is authorised to issue a policy of insurance except the general insurance company.

The existing Sec. 95-A is renumbered as 96. No Change.

Existing Sec. 95-AA regarding security to be deposited by the Insurer was introduced in the Act when general insurance was in the Private Sector. With the nationalisation of general insurance business there is no need for any security to be deposited. Hence this section is deleted.

97. Liability to Pay Compensation in Certain cases on the Principle of no Fault :

(1) Where the death or permanent disablement of any person has resulted from an accident, arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, or as the case may be, the owners of the vehicles shall jointly and severally or where the vehicle(s) involved is (are) duly covered by an insurance policy, the insurer shall, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) The amount of compensation which shall be payable under sub-section (1) in respect of the death of any person shall be a fixed sum of fifteen thousand rupees and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of seven thousand five hundred rupees.

(3) In any claim for compensation under sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person.

(4) A claim for compensation under sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement.

In the existing Act, there is a separate chapter for No-Fault Liability. It has been deleted and provisions of existing Sec. 92-A has been incorporated here.

No change.

No change.

No change.

97-A. Provision as to other Right to Claim Compensation for Death or Permanent Disablement :

(1) The right to claim compensation under section 97 in respect of death or permanent disablement of any person shall be in addition to any other right (hereafter in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force.

Existing provision under Sec. 92-B. No change.

(2) A claim for compensation under Section 97 in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement under Section 97 and also in pursuance of any right on the principle of fault, the claim for compensation under Section 97 shall be disposed of as aforesaid in the first place.

No change.

(3) Notwithstanding anything contained in sub-section (1), where in respect of the death or permanent disablement of any person, the person liable to pay compensation under Section 97 is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first-mentioned compensation and—

No change.

(a) If the amount of the first-mentioned compensation is less than the amount of the second-mentioned compensation he shall be liable to pay (in addition the first-mentioned compensation) only so much of the second-mentioned compensation as is equal to the amount by which it exceeds the first-mentioned compensation.

No change.

(b) If the amount of the first-mentioned compensation is equal to or more than the amount of the second-mentioned compensation he shall not be liable to pay the second-mentioned compensation.

No change.

97-B Permanent Disablement :

For the purposes of this chapter, permanent disablement of a person shall be deemed to have resulted from an accident of the nature referred to in sub-section (1) of section 97 if such person has suffered by reason of the accident any injury or injuries involving—

- (a) Permanent privation of the sight of either eye or the hearing of either ear, or privation of any member or joint; or
- (b) destruction or permanent impairing of the powers of any member or joint; or
- (c) permanent disfiguration of the head or face.

97-C. Applicability of Chapter to Certain Claims under Act 8 of 1923 :

The provisions of this Chapter shall also apply in relation to any claim for compensation in respect of death or permanent disablement of any person under the Workmen's Compensation Act, 1923 (8 of 1923) resulting from an accident of the nature referred to in sub-section (1) of Section 97 and for this purpose, the said provisions shall, with necessary modifications, be deemed to form part of that Act.

97-D. Overriding Effect :

The provisions of Section 97 and 97A to 97D shall have effect notwithstanding anything contained in any other provision of this Act or of any other law for the time being in force.

98. Duty of Insurers to Satisfy Judgements Against Persons Insured in Respect of Third Party Risks :

(1) If, after a certificate of insurance has been issued under sub-section (4) of Section 95 in favour of the person by whom a policy has been effected, judgement in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of Section 95 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder, as if he were the judgement-debtor in respect of the liability together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgement.

(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgement unless before the commencement of the proceedings, the insurer had notice through the Court of the bringing of the proceedings, and an insurer to whom notice of the bringing of any such proceeding is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely :

- (a) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely :
 - (i) a condition excluding the use of the vehicle.
- (a) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward, or
- (b) for organised racing and speed testing, or
- (c) for purpose not allowed by the permit under which the vehicle is used, where the vehicle is a transport vehicle, or

Existing provision of Sec. 92-C.

Existing provisions in Sec. 92-D.

Provision of existing Section 92-E.

Provision of existing Section 96. No change.

Existing provision in this sub-section does not provide that the Insurer should be given notice by the Court before the Commencement of the proceedings. It is felt that due notice should be given to the Insurer by the Court before commencing the proceedings. This sub-section is suitably modified.

No change.

Existing provision at (a) in Sec. 96(2) is omitted.

The question of cancellation of insurance by mutual consent or otherwise does not arise. There is an automatic transfer of insurance along with the transfer of ownership. Hence the cancellation cannot be a ground for defending the claim.

(b) & (c) re-numbered as (a) & (b).

- (d) without side-car being attached, where the vehicle is a motor cycle; or
- (ii) a condition excluding driving by a named person or persons or by any person who is not duly licensed, or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification; or
- (iii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or
- (b) that the policy is void in the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular.

Provided that nothing contained in this sub-section shall apply to no fault liability under Section 97.

(2-A) Where any such judgement as is referred to in sub-section (1) is obtained from a Court in a reciprocating country and in the case of a foreign judgement is, by virtue of the provisions of Section 13 of the Code of the Civil Procedure, 1908 (5 of 1908), conclusive as to any matter adjudicated upon by it, insurer (being an insurer registered under the Insurance Act, 1938 (4 of 1938), and whether or not he is registered under the corresponding law of the reciprocating country) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgement were given by a Court in India :

Provided that no sum shall be payable by the insurer in respect of any such judgement unless, before the commencement of the proceedings in which the judgement is given the Insurer has notice through the Court concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).

(3) Where a certificate of insurance has been issued under sub-section (4) of Section 95 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby reference to any conditions other than those in clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of Section 95, be of no effect :

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person.

(4) If the amount which an insurer becomes liable under this section to pay in respect of a liability incurred by a person insured by a policy exceeds the amount for which the insurer would apart from the provisions of this section be liable under the policy in respect of that liability, the insurer shall be entitled to recover the excess from that person.

(5) In this section the expressions 'material fact and material particular' means respectively a fact or particular of such a nature as to influence the judgement of prudent insurer in determining whether he will take the risk and, if so at what premium and on what conditions, and the expression 'Liability covered by the terms of the policy' means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy.

(6) No insurer to whom the notice referred to in sub-section (2) or sub-section (2-A) has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgement as is referred to in sub-section (1) or sub-section (2-A) otherwise than in the manner provided for in sub-sec. (2) or in the corresponding law of the reciprocating country, as the case may be.

No change.

Proviso added to make matters clear that the type of defence available under this Section are not available to the claims on No-Fault liability.

No change.

This has been slightly modified. Remarks against sub-section (2) will hold good for this also.

No change.

No change.

No change.

No change.

No change.

99. *Rights of Third Parties Against Insurers on the Insolvency of the Insured :*

(1) Where under any contract of insurance effected in accordance with the provisions of this Chapter a person is insured against liabilities which he may incur to third parties then.

Provisions of existing Sec. 97. No change.

(a) in the event of the person becoming insolvent or making a composition or arrangement with his creditors, or

No change.

(b) Where the insured person is a company, in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to the company or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge.

If either, before or after that event, any such liability is incurred by the insured person, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything to the contrary in any provision of law, be transferred and vest in the third party to whom the liability was so incurred.

(2) where an order for the administration of the estate of a deceased debtor is made according to the law of insolvency, then, if any debt probable in insolvency is owing by the deceased in respect of a liability to a third party against which he was insured under a contract of insurance in accordance with the provisions of this Chapter, the deceased debtor's rights against the insurer in respect of that liability shall, notwithstanding anything to the contrary in any provision of law be transferred to and vest in the person to whom the debt is owing.

No change.

(3) Any condition in a policy issued for the purposes of this Chapter purporting either directly or indirectly to avoid the policy or to alter the rights of parties thereunder upon the happening to the insured person of any of the events specified in clause (a) or clause (b) of sub-section (1) or upon the making of an order for the administration of the estate of a deceased debtor according to the law of insolvency shall be of no effect.

No change.

(4) Upon a transfer under sub-section (1) or sub-section (2) the insurer shall be under the same liability to the third party as he would have been to the insured person, but-

No change.

(a) if the liability of the insurer to the insured person exceeds the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the insured person against the insurer in respect of the excess, and

(b) if the liability of the insurer to the insured person is less than the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the third party against the insured person in respect of the balance.

100. *Duty to give Information as to Insurance :*

(1) No person against whom a claim is made in respect of any liability referred to in clause (b) of sub-section (1) of Section 95 shall on demand by or on behalf of the person making the claim refuse to state whether or not he was insured in respect of that liability by any policy issued under the provisions of this Chapter, or would have been so insured if the insurer had not availed or cancelled the policy, nor shall he refuse, if he was or would have been so insured, to give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof.

Provision in existing Sec. 98. No change.

(2) In the event of any person becoming insolvent or making a composition or arrangement with his creditors or in the event of an order being made for the administration of the estate of a deceased person according to the law of insolvency or in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge on any property comprised in an or subject to the charge, it shall be the duty of the insolvent, debtor, personal representative of the deceased debtor or company, as the case may be, or the official assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give at the request of any person claiming that the insolvent debtor, deceased debtor or company is under such liability to him as is covered by the provisions of this Chapter, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by section 99, and for the purpose of enforcing such rights, if any; and any such contract of insurance as purports whether directly or indirectly to avoid the contract or to alter the rights of the parties thereunder upon the giving of such information in the event aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect.

No Change.

(3) If, from the information given to any person in pursuance of sub-section (2) or otherwise, he has reasonable ground for supposing that there have or may have been transferred to him under this Chapter rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned.

No change.

(4) The duty to give the information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premia, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

No change.

101. Settlement between Insurers and Insured Persons

(1) No settlement made by an insurer in respect of any claim which might be made by a third party in respect of any liability of the nature referred to in clause (b) of sub-section (1) of Section 95 shall be valid unless such third party is a party to the settlement.

Provision in existing Sec. 99. No change.

(2) Where a person who is insured under a policy insured for the purpose of this Chapter has become insolvent, or where, if such insured person is a company, a winding up order has been made or a resolution for a voluntary winding up has been passed with respect to the company, no agreement made between the insurer and the insured person after liability has been incurred to a third party and after the commencement of the insolvency or winding up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured person after the commencement aforesaid shall be effective to defeat the right transferred to the third party under this Chapter, but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment had been made.

No change.

102. Saving in Respect of Sections 99, 100 & 101 :

(1) For the purpose of Sections 99, 100 and 101, a reference to 'liabilities of third parties' in relation to a person insured under any policy of insurance shall not include a reference to any liability of that person in the capacity of insurer under some other policy of insurance.

Provision of existing Sec. 100. No change.

(2) The provisions of Sections 99, 100 and 101 shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company.

No change.

103. Insolvency of Insured Persons not to Affect Liability of Insured or Claims by Third Parties :

Where a certificate of insurance has been issued to the persons by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as is mentioned in sub-section (1) or sub-section (2) of Section 99 shall, notwithstanding anything in this Chapter, not affect any liability of that person of the nature referred to in clause (b) of sub-section (1) of Section 95; but nothing in this section shall affect any rights against the insurer conferred under the provisions of Sections 99, 100 and 101 on the person to whom the liability was incurred.

Existing provision under Sec. 101. No change.

104. Effect of Death on Certain causes of Action :

Notwithstanding anything contained in Section 306 of the Indian Succession Act, 1925 (39 of 1925), the death of a person in whose favour a certificate of insurance had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.

Provisions of existing Sec. 102. No change.

105. Effect of Certificate of Insurance :

When an insurer has issued a certificate of insurance in respect of a contract of insurance between the Insurer and the insured person, then—

- (a) if and so long as the policy described in the certificate has not been issued by the insurer to the insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and
- (b) if the insurer has issued to the insured the policy described in the certificate, but the actual terms of the policy are less favourable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate, the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate.

Provision of existing Sec. 103. No change.

No change.

106. Transfer of Certificate of Insurance :

(1) Where the ownership of a motor vehicle is transferred from one person to another by the Registering Authority under sub. sec. (1) of Sec. 31 the certificate of insurance and the policy described in that certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.

(2) The transferor and the transferee shall intimate to the Insurer in writing by Registered Post Acknowledgement Due, the date from which the transfer of ownership of the motor vehicle was effected by the Registering Authority in the certificate of registration in order that the particulars of transfer may be entered by the Insurer in the certificate of insurance and the policy described in that certificate.

According to Sec. 31(1) of the Act, an application for transfer of ownership of a motor vehicle can be made within 30 days of the sale of the vehicle and the registering authority will record the transfer of ownership in the Registration Certificate with retrospective effect. But in the case of transfer of Insurance Policy under the existing sec.103-A, it is not so. The transfer of Insurance Policy is done only from the date of application for transfer. This has created a situation where the filing of the application for transfer of Insurance Policy is delayed for some reason, and in the meanwhile the motor vehicle is involved in an accident, then there is no insurance cover for the transfer. When one section of the Act provides for automatic transfer of ownership of a motor vehicle there is no reason why similar provision should not be extended in the case in insurance also. Various High Court while disposing of accident claims have observed that there should be provision for automatic transfer of Insurance. Hence, this existing Sec. 103-A has been suitably amended.

107. Production of Documents when the Vehicle is Involved in the Accident :

(1) When a motor vehicle is involved in any accident, the driver of the vehicle shall, on being so required by a police officer in uniform authorised, in this behalf by the State Government, produce the certificate of insurance relating to the use of the vehicle, registration certificate of the vehicle and his driving licence, and if it happen to be transport vehicle the permit and certificate of fitness of that vehicle.

(2) If the driver of the vehicle is not at that time in possession of the aforesaid documents he shall produce them in the specified police station immediately or in any case within twentyfour hours.

(3) The owner of a motor vehicle shall give such information as he may be required by or on behalf of a police officer empowered in this behalf by the State Government to give for the purpose of determining whether the vehicle was or was not being driven in contravention of Section 94 and on any occasion when the driver was required under this section to produce his certificate of insurance.

(4) In this section, the expression 'produce his certificate of Insurance' means produce for examination the relevant certificate of insurance or such other evidence as may be prescribed that the vehicle was not beng driven in contravention of section 94.

(5) It shall be the duty of the Police Officer who investigates the case of Motor vehicle accident involving death or serious injury to persons to file a copy of the FIR, in every such case to the claims Tribunal having jurisdiction.

108. Production of Certificates of Insurance on Application for Authority to use Vehicle :

A state Government may make rules requiring the owner of any motor vehicle when applying whether by payment of a tax or otherwise for authority to use a vehicle in a public place to produce such evidence as may be prescribed by these rules to the effect that either—

- (a) on the date when the authority to use the vehicle comes into operation these will be in force the necessary policy of insurance in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission, or
- (b) the vehicles is a vehicle to which Section 94, does not apply.

109. Duty to Furnish Particulars of Vehicle involved in Accident :

A registering authority or the officer in charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of vehicle and name and address of the person who was using the vehicle at the time of the accident or was injured by it. Such information shall be furnished in the Form A.I.R. as may be prescribed by the Central Government by notification in the Official Gazette.

The existing law under Sec. 106 requires the driver to produce the insurance certificate only when the vehicle is involved in accident but the other documents such as registration certificate, fitness certificate, permit and driving licence are all required, in this connection, this sub-section, has been suitably amended.

This sub-section has been suitably amended to make it obligatory to produce the records within 24 hours since any delay in production of these records will delay the settlement of compensation.

No Change.

No change.

This is a new provision. Due to the ignorance of the parties, claims are not preferred before the Tribunals within the due dates. If FIRs are filed, the Tribunal may at its discretion treat it as an application for claim. Ministry of Home Affairs have also held this view, when a suggestion made by one of the High Court Judges was discussed in a meeting there.

This is an existing provision under Sec. 107.

Existing Sec. 108 relates to co-operative Insurance. After the nationalisation of General Insurance Business co-operative Societies cannot transact the insurance business. This provision was there prior to nationalisation of insurance business. This provision cannot have any legal backing now. Hence deleted.

Existing provision under Sec. 109. This provision is to help the claimants to file application for compensation. It is felt that all information required for filling an application for compensation may be provided in the Format that may be prescribed by Central Government. Hence this section has been suitably amended.

109-A. Special Provisions as to Compensations in cases of hit and Run Motor Accidents :

(1) for the purposes of this section, Section 109-B and Section 109-C.

- (a) 'grievous hurt' shall have the same meaning as in the Indian Penal Code 1860 (45 of 1860) ;
- (b) 'hit and run motor accident' means an accident arising out of the use of a motor vehicle or motor vehicle the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose ;
- (c) "scheme" means the scheme framed under Sec. 109-C ;
- (d) "Solatium Fund" means the Fund established under sub-section (2).

(2) The general Insurance Corporation shall establish a Fund to be known as the Solatium Fund.

No change.

There is a new provision. Under the existing provisions in the M.V. Act 1939, as inserted through the M.V. (Amendment) Act, 1982 the Solatium Compensation in the Hit & Run Motor-Accidents had been decided to be paid out of the Solatium Fund to be established by the Central Government. The Fund has been established. The Fund is made up of contributions from GIC, the Central Government and the State Governments in the ratio of 70:15:15. The ratio was prescribed taking into account the estimated number of insured & uninsured vehicles. Since vehicles belonging to Central & State Governments are exempt from insurance it was thought that the liability if any arising out of Hit & Run accidents involving such vehicles should be borne by them. It was also thought that the number of Hit & Run Accidents would be around 2,000 fatal and 5,000 of serious injury. The experience during the last three years have shown that the claims for solatium compensation have not been many. Further, the administration of the Solatium Fund Scheme is now by the SFA established by the Central Government and the scheme is implemented through the agencies of the State Governments. In view of the fact that Solatium is only another category of compensation, that GIC as the main insurance agency can appropriately handle this work of Compensation, it is suggested that GIC itself should earmark some funds for this type of compensations and pay them as per awards that may be made by the Settlement Commissioners i.e. DM/Collector/Dy. Commissioner of the revenue district.

(3) The Solatium Fund shall be utilised for paying, in accordance with the provisions of this Act and the scheme, compensation in respect of the death of, or grievous hurt to, persons resulting from hit and run motor accidents.

No change.

(4) Subject to the provisions of this Act and the scheme there shall be paid as compensation out of the Solatium Fund :

Existing sub. sec (5) is renumbered.

- (a) in respect of the death of any person resulting from a hit and run motor accident, fixed sum of five thousand rupees ;
- (b) in respect of grievous hurt to any person resulting from a hit and run motor accident, fixed sum of one thousand rupees ;

(5) The provision of Sub-section (1) of Sec. 110-A shall apply for the purpose of making application for compensation under this section as the apply for the purpose of making applications for compensation referred to in that sub-section—

109-B. Refund in Certain Cases of Compensation and under Section VJT-A

(1) The payment of compensation in respect of the death of, or grievous hurt to, any person under Section 109-A shall be subject to the condition that if any compensation

Existing provision under section 109-B.

(hereafter in sub-section referred to as the other compensation) or other amount in lieu of or by way of satisfaction of a claim for compensation is awarded or paid in respect of such death or grievous hurt under any other provision of this Act or any other law or otherwise, so much of the other compensation or other amount aforesaid as is equal to the compensation paid under Section 109-A shall be credited to the Solatium Fund by way of refund.

(2) Before awarding compensation in respect of an accident involving the death of, or bodily injury to, any person arising out of the use of a motor vehicle or motor vehicles under any provision of this Act (other than Section 109-A) or any other law, the tribunal, Court or other authority awarding such compensation shall verify as to whether in respect of such death or bodily injury compensation has already been paid under Section 109-A or an application for payment of compensation is pending under that section, and such tribunal court or other authority shall,

- (a) If compensation has already been paid under Section 109-A direct the person liable to pay the compensation awarding by it to pay into the Solatium Fund so much thereof as is required to be credited to that Fund in accordance with provisions of sub-section (1).
- (b) if an application for payment of compensation is pending under section 109-A forward the particulars as to the compensation awarded by it the authority in which the solatium fund vests.

Explanation—For the purposes of this Sub-section an application for compensation under Section 109-A shall be deemed to be pending.

- (i) if such application has been rejected, till the date of the rejection, and
- (ii) in any other case, till the date of payment of compensation in pursuance of the application.

109-C. Scheme for the Administration of the Solatium Fund:

(1) The Central Government may, by notification in the Official Gazette, make a scheme specifying the manner in which the Fund shall be administered, the form, manner and the time within which application for compensation from the Fund may be made, the officers or authorities to whom such applications may be made the procedure to be followed by such application, and all other matters connected with, or incidental to, the administration of the Fund and the payment of compensation therefrom.

Existing Provision under Sec. 109-C.

(2) A scheme made under sub-section (1) may provide that—

- (a) a contravention of any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees or with both ;
- (b) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated, with the prior approval in writing of the Central Government, but such officer or authority to any other officer or authority ;
- (c) any provision of such scheme may operate with retrospective effect from a date not earlier than the date of establishment of the Solatium Fund ;

No change.

Provided that no such retrospective effect shall be given so as to prejudicially affect the interests of any person who may be governed by such provision.

(3) Every scheme made under this section shall be laid, as soon as may be after it is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

110. Claims Tribunals :

(1) A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereinafter referred to as Claims Tribunals) for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both ;

[Explanation—For the removal of doubts, it is hereby declared that the expression claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles' includes claims for compensation under Section 97].

(2) A Claims Tribunal shall consist of such number of members as the State Government may think fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof,

(3) A person shall not be qualified for appointment as a member of a Claims Tribunal unless he—

- (a) is, or has been, a judge of High Court
- (b) is, or has been, district Judge, or
- (c) is qualified for appointment as a judge of the High Court.

(4) Where two or more Claims Tribunals are constituted for any area, the High Court of the State may, by general or special order, regulate the distribution of business among them.

110-A. APPLICATION FOR COMPENSATIONS

(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of Section 110 may be made—

- (a) by the person who has sustained the injury or,
- (b) by the owner of the property ; or
- (c) Where death has resulted from the accident, by all or any of the legal representatives of the deceased ; or

No change

Existing provision under section 110. No change.

Proviso to sub-section (1) of Sec. 110 shall be omitted.

The Law Commission in its 84th report has recommended that the option to make a claim in a civil court in case of property damage exceeding Rs. 2000 should be deleted since such options to the claims is not necessary after the establishment of Claims Tribunal and the choice of forums should not be left to the claimant since there is a chance for 2 different tribunals adjudicating 2 different claims on the same set of facts one for personal damages and the other for Property damages. It is therefore proposed to omit the proviso.

No change

No change.

The Law Commission in its 85th Report has recommended that the power of distribution of business among different claims tribunals be vested in the High Court and not in the State Government. As the recommendation of the Law Commission is reasonable the word "State Government" have been substituted by the words "High Court".

Existing provision under Sec. 110-A.

No change.

- (d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased as the case may be :

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred, and shall be according to such form as may be prescribed.

Provided that where any claim for compensation under Section 97 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant :

(3) No application for such compensation shall be entertained unless it is made within six months of the occurrence of the accident :

Provided that the Claims Tribunal may entertain the application made under Section 110-A. if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.

Provided further that the total such period shall not exceed twelve months from the date of occurrence of the accident.

(4) Where a police officer has filed a copy of FIR as required under sub-section (5) of Sec. 107 the claim Tribunal may be its discretion, treat the FIR as if it were an application made under Section 110-A.

110-B. Option Regarding Claims for Compensation Cases :

Notwithstanding anything contained in the Workman's Compensation Act, 1923 (8 of 1923), where the death of or bodily injury to any person gives rise to a claims for compensation under this Act and also under the Workman's Compensation may, without prejudice to the provisions of sections 97 & 97A to 97D Claims, such compensation under either of these Acts but not under both.

110-C. Award of the Claims Tribunal:

(i) On receipt of an application for compensation made under Section 110-A, the Claims Tribunal shall, after giving the parties an opportunity of being heard, hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of Section 109-B may make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid and is making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be:

Provided that where such application makes a claim for compensation under Sec. 97 in respect of the death or permanent disablement of any person, such claim and any other claim (whether made in such application or otherwise) for compensation in respect of such death or permanent disablement shall be disposed of in accordance with the provisions of section.

The words "in such form" have been replaced by the words "according to such form. It is seen that the parties contesting the claims before Tribunals have been raising technical objection that the form has not been filled as given etc., To avoid the scope for defendants' in raising technical objection if there is any slightest defects in the application form filled up by the Claimant, this wording has been put.

No change.

At present condonation is being granted by the Tribunal even where application is made after 2 or 3 years from the date of occurrence of the accident. It is represented that in such cases Insurers find it difficult to trace their records and put up proper defence in time.

The proposed amendment is to provide a maximum time limit of one year including the period of condonation within which the third party is required to make an application to the Tribunal. This is a new provision. The remarks offered against sub- sec. (5) of Sec. 107 will hold good.

Existing provision under Sec. 110-AA. No change.

Existing provision under Sec. 110-B. No change.

No change.

(2) The Tribunal shall arrange to deliver copies of the award to the parties concerned expeditiously in any case within a period of fifteen days from the date of the award.

(3) When an award is made under this Section the person against whom it is made shall within thirty days of the date of announcing the award by the Tribunal, deposit the entire amount awarded with the Tribunal.

110-D. Procedure and Powers of Claims Tribunals:

(1) In holding any inquiry under Section 110-C the Claims Tribunal may, subject to any rules that may be made in this behalf, follow such summary procedure as it thinks fit

(2) The Claims Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witness and of compelling the discovery and production of documents and material objects and for other purposes as may be prescribed; and the Claims Tribunal shall be deemed to be a Civil Court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(2-A) Where in the course of any inquiry, the Claims Tribunal is satisfied that—

- (i) there is collusion between the person making the claim and the person against whom the claim is made, or
- (ii) the person against whom the claim is made has failed to contest the claim.

it may, for reasons to be recorded by it in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made.

(3) Subject to any rules that may be made in this behalf, the Claim Tribunal may, for the purpose of adjudicating upon any claim for compensation, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry.

110-E. Award of interest where any claim is allowed:

Where any Court or Claims Tribunal allows a claim for compensation made under this Act, such Court or Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in the behalf.

110-F. Award of compensatory costs in certain cases:

(1) Any Court or Claims Tribunal adjudicating upon any claim for compensation under this Act, may in case where it is satisfied for reasons to be recorded by it in writing that—

- (i) the policy of insurance is void on the ground that it was obtained by representation of fact which was false in any material particular, or
- (ii) any party or insurer has put forward a false or vexatious claim or defence, such Court or Tribunal may make an order for the payment, by the party who is guilty of misrepresentation or by whom such claim or defence has been put forward, or special costs by way of compensation to the insurer or, as the case may be, to the party against whom such claim or defence has been put forward.

This is a new provision. It is felt that there must be a time limit for supply of copies as any undue delay is bound to create hardship to both the claimants and defendants of claims.

The cases of claims are settled after protracted time by the defendants using dilatory tactics. Even after the award of claims appeals are filed challenging the award by the Insurer/Insured thereby causing hardship to the claimant. Hence it is proposed to fix a time limit to deposit the award.

Existing 100-C. No change.

No change.

No change.

No change.

Existing Sec. 110-CC. No change.

Existing Sec. 110-CCC.

(2) No Court or Claims Tribunal shall pass an order for special costs under sub-section (1) for any amount exceeding rupees one thousand.

No change.

(3) No person or insurer against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of such misrepresentation, claim or defence as is referred to in sub-section (1).

(4) Any amount awarded by way of compensation, under this section in respect of any misrepresentation, claim or defence shall be taken into account in any subsequent suit for damage for compensation in respect of such misrepresentation, claim or defence.

No change.

110-G. Appeals:

(1) Subject to the provisions of sub-section (2) any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of award, prefer an appeal to the High Court:

Existing Sec. 110-D. No change.

Provided that the High Court may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time:

Provided further that the High Court shall not entertain an appeal either from the owner of the vehicle or Insurer unless fifty per cent of the amount of compensation awarded by the Tribunal has been deposited by the owner of the vehicle or the Insurer as the case may be.

This is a new provision. It has been the normal experience that the facility of appeals is misused by contesting party to delay the due payments as per awards, as a consequence of which the victim/legal heir is denied the compensation. It is therefore provided that entertaining of an appeal will be conditional to deposit with the Tribunal of 50% of awarded amount.

(2) No appeal shall lie against any award of a Claims Tribunal, if the amount in dispute in the appeal is less than ten thousand rupees.

The amount in dispute in this appeal has been increased from two thousand rupees to ten thousand rupees. This has been done in order to reduce the number of appeals and consequent delays.

110-H. Recovery of money from any person as arrears of land revenue

Where any money is due from any person under an award the Claim Tribunal may on an application made to it by the person entitled to the money, issue a certificate to the amount to the collector and the Collector shall proceed to recover the same, in the same manner as an arrear of land revenue.

Existing provision under Sec. 110-E. No change.

110-I Bar of Jurisdiction of Civil Courts ;

Where any Claims Tribunal has been constituted for any area, no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area, and no injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the Claim for compensation shall be granted by the Civil Court.

Existing Sec. 110-F. No change.

111. Power of Central Government to make rules:

(1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

No change in existing Sec. 111. No change.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

No change except that existing clause (h) has been deleted consequent on the deletion of existing Sec. 108 relating to co-operative Insurance.

- (a) the forms to be used for the purposes of this Chapter;
- (b) the making of application for and the issue of certificate of insurance;
- (c) the issue of duplicate to replace certificates of insurance lost, destroyed or mutilated;
- (d) the custody, production, cancellation and surrender of certificates of insurance;

- (e) the records to be maintained by insurers of policies of insurance issued under this Chapter;
- (f) the identification by certificates or otherwise of persons or vehicles exempted from the provisions of this Chapter;
- (g) the furnishing of information respecting policies of insurance by insurers;
- (h) adapting the provisions of this Chapter to vehicles brought into India by persons making only a temporary stay therein or in a reciprocating country and operating on any route or within any area in India by applying those provisions with prescribed modifications; and
- (j) any other matter which is to be or may be prescribed;

111-A. Power of State Government to make rules:


A State Government may make rules for the purpose of carrying into effect the provisions of Section 110 and 110A to 110-H and in particular, such rules may provide for all or any of the following matters, namely:

No change in existing Sec. 111-A.

- (a) the form of application for compensation and the particulars it may contain; and the fees, if any to be paid in respect of such applications;
- (b) the procedure to be followed by a Claims Tribunal in holding an inquiry under this Chapter;
- (c) the powers vested in a Civil Court which may be exercised by a Claims Tribunal;
- (d) the form and the manner in which and the fees (if any) on payment of which, an appeal may be preferred against an award of Claims Tribunal; and
- (e) the powers vested in a Civil Court which may be prescribed.



REPORT ABOUT THE MOTOR VEHICLE ACCIDENT

1. Name of the police station :
 2. CR No./T.A.R. No./S.D.E. No. :
 3. Date, time and Place of the accident :
 4. Name and full address of injured/deceased :
 5. Name of the Hospital to which he/she was removed :
 6. Registration Number of vehicle and the type of the vehicle :
 7. Diving Licence particular :
 - (a) Name & Address of the driver.
 - (b) Driving licence number and date of expiry class of vehicle authorised to drive.
 - (c) Address of the issuing authority.
 - (d) Badge No. in case of public service vehicle.
 8. Name & Address of the owner of the vehicle as it stands on the date of the accident.
 9. Name and address of the Insurance Co. with whom the vehicle was insured and the Divisional Office of the said Insurance Company.
 10. Number of Insurance Policy/Ins. Cert. and the date of validity of the Ins. Policy/Ins. Certificate.
 11. Regn. particulars of the vehicle (Class of vehicles).
 - (a) Registration No.
 - (b) Engine No.
 - (c) Chassis No.
 12. Route Permit Particulars.
 13. Action taken, if any, and the result thereof.
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CHAPTER IX
REASON AND JUSTIFICATION FOR THE PROPOSED CHANGES

PUNISHMENT, FINES AND PENALTIES FOR VIOLATIONS

112. General provision for Punishment of offences :

Whoever contravenes any provision of this Act or of any rule made thereunder shall, if no other penalty is provided for the offences, be punishable with fine which may extend to One Hundred Rupees or if having been previously convicted of any offence under this Act he is again convicted of an offence under this Act, with fine which may extend to three hundred rupees.

No change in the existing provision.

112-A Penalty for Travelling without Pass or Ticket and for Dereliction of Duty on the Part of Conductor :

(1) Whoever travels in a stage carriage without having a proper pass or ticket with him or being in or having alighted from a stage carriage fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefore, he shall be punishable with fine which may extend to five hundred rupees.

Explanation—In this section, 'Pass' & 'ticket' have the meanings respectively assigned to them in Section 80.

(2) If the conductor of a stage carriage, or the driver of a stage carriage where such driver discharges the functions of a conductor in such stage carriage, whose duty is—

(a) to demand and supply a ticket to a person travelling in stage carriage on payment of fare by such person, either wilfully or negligently,—

(i) fails to demand a ticket or

(ii) fails or refuses to accept the fare when tendered, or

(iii) fails or refuses to supply a ticket or,

(iv) supplies an invalid ticket, or

(v) supplies a ticket of lesser value, or

(b) to check any pass or ticket either wilfully or negligently fails or refuses or do so, he shall be punishable with fine which may extend to five hundred rupees.

The sub-sections (3) and (4) have been omitted. Those provisions related to the compounding of offence since there is an all-inclusive section of compounding of offences Sec. 127-B. The relevant entry in that section has been made.

113. Disobediences of orders Obstruction and Refusal of Information :

(1) Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this act to discharge shall, if no other penalty is provided for the offence, be punishable with fine which may extend to five hundred rupees.

No change.

(2) Whoever, being required by or under this Act supply any information wilfully withholds such information or gives information which he knows to be false or which he does not believe to be true shall, if no other penalty is provided for the offence, be punishable with fine which may extend to one thousand rupees.

The offence under this section has been already treated as one for compounding under Sec 127-B. The relevance of providing for punishment by imprisonment thus already loses its reason-de-tra. It is felt that there is no need for imprisonment for this offence and it is enough if the amount of fine is raised to Rs. 1000. This has been amended accordingly.

113-A. Allowing an Unauthorised Person to Drive Vehicles

Whoever, being the owner or person in charge of a motor vehicle, causes or permits, any person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle shall be punishable with fine which may extend to one thousand rupees.

Existing provision with deletion of the provision for imprisonment. The offence under this section has been already treated as one for compounding under sec. 127-B. Therefore, there is hardly any relevance for providing for punishment by imprisonment. That aspect therefore is omitted.

113-B. Driving vehicles in Contravention of Section 3 or Section 4 :

Whoever drives a motor vehicle in contravention of section 3 or Section 4 shall be punishable with fine which may extend to five hundred rupees.

Existing provision. Imprisonment deleted.

114. Offences relating to Licences :

(1) Whoever, being disqualified under this Act for holding or obtaining as driving licence, drives a motor vehicle in public place or applies for or obtains a driving licence or, not being entitled to have a driving licence issued to him free of endorsement, applies for or obtains a driving licence without disclosing the endorsements made on a driving licence previously held by him, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and any driving licence so obtained by him shall be of no effect.

No change.

(2) Whoever acts as a conductor either without the valid Authorisation or during the period of suspension by the licencing Authority of the Authorisation acts as a conductor of a stage carriage in a public place shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

115. Driving at excessive Speed :

(1) Whoever drives a motor vehicle in contravention of Section 71 shall be punishable with fine which may extend to four hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to one thousand rupees.

No Change.

(2) Whoever causes any person who is employed by him or is subject to his control in driving to drive a motor vehicle in contravention of section 71 shall be punishable with fine which may extend to three hundred rupees or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section with fine may extend to five hundred rupees.

(3) No person shall be convicted of an offence punishable under sub-section (1) solely on the evidence of one witness to the effect that in the opinion of the witness such person was driving at a speed which was unlawful, unless that opinion is shown to be based on an estimate obtained by the use of some mechanical device.

(4) The publication of a time-table under which or the giving of any direction, that any journey or part of a journey is to be completed within a specified time shall, if in the opinion of the Court it is not practicable in the circumstances of the case for that journey or part of a journey to be completed in the specified time without infringing the provisions of Section 71, be prima facie evidence that the person who published the time-table or gave the direction has committed an offence punishable under sub-section (2).

116. Driving recklessly or dangerously:

Whoever drives a motor vehicle at a speed or in a manner which is dangerous to the public having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount

No Change.

of traffic which actually is at the time or which might reasonably be expected to be in the place, shall be punishable on a first conviction for a term which may extend to six months, or with fine which may extend to one thousand rupees, and for a subsequent offence ■ committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees or with both.

117. *Driving by a Drunken Person or by a Person under the Influence of Drug :*

Whoever, while driving, or attempting to drive, a motor vehicle or riding or attempting to ride, a motor cycle,—

No change.

(a) has, in his blood alcohol in any quantity, howsoever small the quantity may be, or

(b) is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle, shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both, and for a second or subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both.

Explanation—For the purposes of this section, the drugs specified by the Central Government in this behalf, by notification in the Official Gazette, shall be deemed to render a person incapable of exercising proper control over a motor vehicle.

118. *Driving when Mentally or Physically unfit to Drive :*

Whoever drives a motor vehicle in any public place when he is to his knowledge suffering from any disease or disability calculated to cause his driving of the vehicle to be a source or danger to the public, shall be punishable for a first offence with fine which may extend to two hundred rupees and for a second or subsequent offence with fine which may extend to five hundred rupees.

No Change.

118-A. *Punishment for Offences Relating to Accident :*

Whoever fails to comply with the provisions of sub-section 87 of section 88 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both or, if having been previously convicted of an offence under this section, he is again convicted of an offence under this section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

No change.

119. *Punishment for Abetment of Certain Offences:*

Whoever abets the commission of an offence under Section 116, 117 or 118, shall be punishable with the punishment provided for the offence.

No change.

120. *Racing and Trials of Speed:*

(1) Whoever without the written consent of the State Government permits or takes part in a race or trial of speed between motor vehicles in any public place shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

No change.

(2) *Drag Racing*—whoever as driver of a motor vehicle indulges in drag racing shall be punishable with fine which may extend to three hundred rupees.

A new provision.

Explanation—Drag racing means the act of two or more vehicles competing or racing in any public place in a situation in which one of the motor vehicle is beside or to the rear of a motor vehicle operated by a competing driver from passing or overtaking, either by acceleration or manoeuvre, or one or more individuals competing in a race against time in any public place.

121. *Using Vehicle in Unsafe Condition:*

(1) Any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine which may extend to two hundred and fifty rupees or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

No change.

(2) Any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in relation to road safety, control of noise and air-pollution, or violates the standards prescribed for packages and containers for carrying hazardous material shall be punishable with fine of one thousand rupees in the case of first offence and for every subsequent offence a fine of Rs. two thousand.

A new provision to enable dealing with cases of violation of pollution control and safety standards.

122. *Sale of Vehicle in or Alteration of Vehicle to Condition Contravening this Act:*

Whoever, being an importer of or dealer in motor vehicles, sells or delivers or offers to sell or delivers a motor vehicle or trailer in such condition that the use thereof in a public place would be in contravention of Chapter V or any rule made thereunder or alters the motor vehicle or trailer so as to render its condition such that its use in a public place would be in contravention of Chapter V or any rule made thereunder shall be punishable with fine which may extend to five hundred rupees:

No change.

Provided that no person shall be convicted under this section if he proves that he had reasonable cause to believe that the vehicle would not be used in a public place until it had been put into a condition in which it might lawfully be so used.

123. *Using Vehicle Without Registration or Permit:*

(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of Section 22 or without the permit required by sub-section (1) of Section 42 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used or to the maximum number of passengers and maximum weight of luggage that may be carried on the vehicle shall be punishable for a first offence with fine which may extend to two thousand rupees and for any second or subsequent offence with fine which may extend to five thousand rupees:

The imprisonment provision has been deleted but the amount of fine has been raised to Rupees five Thousand. The offence under this section has already been considered as one for compounding under section 127-B. The relevance of providing for punishment by imprisonment thus already has lost its reason. Keeping in view the nature of violation it is felt that there is no need to provide for imprisonment for this offence and accordingly that aspect has been omitted.

Provided that no Court shall, except for reasons to be stated in writing, impose of fine of less than five hundred rupees for any such second or subsequent offence.

(2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport

No change.

of materials for repair or of food or materials to relieve distress or of medical supplies for alike purpose :

Provided that the person using the vehicle reports such use to the Regional Transport Authority within seven days.

(3) Where a person is convicted of an offence under this section, the Court by which such person is convicted may, by order :—

- (a) if the vehicle used in the commission of the offence is a motor car, suspend its certificate of registration for a period not exceeding four months;
- (b) if the vehicle used in the commission of the offence is a transport vehicle, suspend its permit for a period not exceeding six months or cancel it.

(4) The court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1) may set aside or vary any order of suspension or cancellation made under sub-section (3) by the Court below and the Court, to which appeals ordinarily lie from the Court below, may set aside or vary any such order of suspension or cancellation made by the Court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

123-A Punishment of Agents and Canvassers Without Proper Authority :

Whoever engages himself as an agent or canvasser in contravention of the provisions of section 66-A or any rules made thereunder shall be punishable for the first offence with fine which may extend to two thousand rupees and for any second or subsequent offence with fine which may extend to five thousand rupees :

Provided that no court shall, except for reasons to be recorded by it in writing, impose a fine of less than two thousand rupees for any such second or subsequent offence.

124. Driving Vehicle Exceeding Permissible Weight:

(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of Section 72 or of the conditions prescribed under that Section, or in contravention of any prohibition or restriction imposed under Section 72 shall be punishable for a first offence with a fine which may extend to two hundred rupees and for a second or subsequent offence with fine which may extend to one thousand rupees.

(2) Any driver of a vehicle who refuses to stop and submit his vehicle and load to weighing after being directed to do so by an officer authorised in this behalf under Section 73 or removes or causes the removal of the load or part of it prior to weighing is guilty of offence and shall be liable to the fine which may extend to rupees three hundred.

124-A Imposition of Minimum Fine under Certain Circumstances :

(1) Whoever having been convicted of an offence under this Act commits an offence on a second or subsequent occasion within three years of the commission of a previous similar offence, no court shall, except for reasons to be stated in writing, impose on him a fine of less than one-fourth of the maximum amount of the fine imposable for such offence.

(2) Nothing in sub-section (1) shall be construed as restricting the power of the court from awarding such imprisonment as it considers necessary in the circumstances of the case not exceeding the maximum specified in this Act in respect of that offence.

No change.

Existing section. The provision for imprisonment has been deleted and the amount of fine has been raised.

The offence under this section has already been considered as one for compounding under Section 127-B. The relevance of providing for punishment by imprisonment thus already has lost its reason d'être. Keeping in view the nature of violation, it is felt there is no need to provide for imprisonment for this offence and accordingly that aspect has been omitted.

No change.

A new provision in view of the amendment to Sec. 73 relating to the requirement of submitting to the test of weighing of the load carried by the vehicle.

No change.

125. Driving Uninsured Vehicle :

Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of Section 94 shall be punishable with fine which may extend to one thousand rupees.

Provision for imprisonment deleted. The offence under this section has already been considered as one for compounding under section 127-B. The relevance of providing for punishment by imprisonment thus already has lost its reason d'être. Keeping in view the nature of violation, it is held that there is no need to provide for imprisonment of this offence and accordingly that aspect has been omitted.

126. Taking Vehicle without Authority :

Whoever takes and drives away any motor vehicle without having either the consent of the owner thereof or other lawful authority or whoever *hijacks* the motor vehicle shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

The offence of "taking the vehicle without authority" would not only cover the aspect of stealing or forcibly taking some vehicle but also the "hijacking of vehicles". The amount of fine has been raised from Rs. 500 to Rs. 1000 besides retaining the provision of imprisonment.

Provided that no accused person shall be convicted under this section if the Court is satisfied that the accused acted in the reasonable belief that he had lawful authority or in the reasonable belief that the owner would in the circumstances of the case have given his consent if he had been asked therefor.

127. Unauthorised Interference with Vehicle :

Whoever otherwise than with lawful authority or reasonable excuse enters or mounts any stationary motor vehicle or tampers with the brake or any part of the mechanism of a motor vehicle shall be punishable with fine which may extend to one hundred rupees.

No change.

127-A. Offences by Companies:

(1) If the person contravening any provision of this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly :

No change.

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :—For the purposes of this section—

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

127-B. Composition of Certain Offences :

(1) Any offence whether committed before or after the commencement of section 26 of the Motor Vehicles (Amendment) Act, 1982 punishable under Section 112, 112-A, Section 113, Section 113-A, Section 113-B, Section 114, sub-section (1) and (2) of Section 115, Section 116, Section

No change except that Sec. 113-A is included which had earlier separate detailed provision regarding compounding.

118, Section 120, Section 122, Section 123, Section 123-A, Section 124, Section 125 or Section 127 may, either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the state Government may, by notification in the Official Gazette, specify in this behalf.

(2) Where in offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.

127-C. Penalty for causing Obstruction to the Free Flow of Traffic:

(1) Whoever keeps a disabled vehicle on any public road, in such a manner, so as to cause impediment to the free flow of traffic, shall be liable for penalty upto Fifty Rupees per hour, so long as it remains in that position :

Provided that the vehicles involved in accidents shall be liable for penalty only from the time on completion of inspection formalities under the law.

(2) The penalties under this Section shall be recoverable by such officers or authorities prescribed by the State Govt. under Section 127-B.

128. Power of Arrest Without Warrant :

(1) A police officer in uniform may arrest without warrant any person who commits in his view an offence punishable under Section 116 or Section 117 or Section 126 :

Provided that any person so arrested in connection with an offence punishable under Section 117 shall be subjected to a medical examination by a registered medical practitioner within two hours of his arrest or shall then be released from custody.

(2) A police officer in uniform may arrest without warrant :

- (a) any person who being required under the provisions of this Act to give his name and address refuses to do so, or gives a name or address which the police officer has reason to believe to be false, or
- (b) any person concerned in an offence under this Act or reasonably suspected to have been so concerned, if the police officer has reason to believe that he will abscond or otherwise avoid the service of a summons ;
- (c) A police officer arresting without warrant the driver of a motor vehicle shall, if the circumstances so required, take or cause to be taken any steps he may consider proper for the temporary disposal of the vehicle.

128-A. Breath Tests:

(1) A police officer in uniform may require any person driving or attempting to drive a motor vehicle in a public place to provide one or more specimens of breath for breath test there or nearby, if the police officer has any reasonable cause—

- (a) to suspect him of having alcohol in any quantity in his body, or
- (b) to suspect him of having committed an offence punishable under Section 117 :

Provided that no requirement for breath test shall be made unless it is made soon as reasonably practicable after the commission of such offence.

This is a new provision one of the serious hazards on the highways generally encountered is the leaving disabled vehicles unattended. Experience has shown that there are generally fully loaded trucks standing on the highways, with big stones placed all-around with no indicators of lodging of such a vehicle there. This proves to be a great obstruction to the free flow of traffic. To prevent such misuse of road space on highways, it is proposed to levy penalty for such violations. Care has been taken that any accidented vehicle will not attract penalty till inspection formalities are over.

No change.

No Change.

(2) If a motor vehicle is involved in an accident in a public place and a police officer in uniform has any reasonable cause to suspect that the person who was driving or attempting to drive the motor vehicle at the time of the accident, had alcohol in his blood or urine or that he was driving under the influence of a drug referred to in Section 117, he may require the person as driving or attempting to drive the motor vehicle, to provide a specimen of his breath for a breath test.

- (a) in the case of a person who is at a hospital as an indoor patient, at the hospital,
- (b) in the case of any other person, either at or near the place where the requirement is made, or, if the police officer thinks fit, at a police station specified by the police officer:

Provided that a person shall not be required to provide such a specimen while at a hospital as an indoor patient if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or subjects to the provision of a specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient.

(3) If it appears to a police officer in uniform, in consequence of a breath test carried out by him on any person under subsection (1) or sub-section (2) that the device by means of which the test has been carried out indicates the presence of alcohol in the person's blood, the police officer may arrest that person without warrant except while that person is at a hospital as an indoor patient.

(4) If a person, required by a police officer under subsection (1) or sub-section (2) to provide a specimen of breath for a breath test, refuses or fails to do so and the police officer has reasonable cause to suspect him of having alcohol in his blood or urine, the police officer may arrest him without warrant except while he is at a hospital as an indoor patient.

(5) A person arrested under this section shall, while at a police station, be given an opportunity to provide a specimen of breath for a breath test there.

(6) The results of breath test made in pursuance of the provisions of this section shall be admissible in evidence.

Explanation—For the purposes of this section, "breath test" means a test for the purposes of obtaining an indication of the presence of alcohol in a person's blood carried out, on one or more specimens of breath provided by that person, by means of a device of a type approved by the Central Government, by notification in the Official Gazette, for the purpose of such a test.

128-B. Laboratory Test :

(1) A person who has been arrested under Section 128-A, may, while at a police station, be required by a police officer to provide, to such registered medical practitioner as may be produced by such police officer, a specimen of his blood or urine for a laboratory test, if,—

No change.

- (a) it appears to the police officer that the device, by means of which breath test was taken in relation to such person, indicates the presence of alcohol in the blood of such person, or
- (b) such person, when given the opportunity to submit to a breath test, has refused, omitted or failed to do so :

Provided that where the person required to provide such specimen is a female and the registered medical practitioner produced by such police

officer is a male medical practitioner, the specimen shall be taken only in the presence of a female, whether a medical practitioner or not.

(2) A person while at a hospital as an indoor patient may be required by police officer to provide at the hospital a specimen of his blood or urine for a laboratory test—

- (a) if it appears to the police officer that the device by means of which test is carried out in relation to the breath of such person, indicates the presence of alcohol in the blood of such person, or
- (b) if that person having been required, whether at the hospital or elsewhere, to provide a specimen of breath for a breath test, has refused, omitted or failed to do so and a police officer has reasonable cause to suspect him of having alcohol in his blood.

Provided that a person shall not be required to provide a specimen of his blood or urine for a laboratory test under this sub-section if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of such specimen on the ground that its provision of the requirement to provide it would be prejudicial to the proper care or treatment of the patient.

(3) The results of a laboratory test made in pursuance of this section shall be admissible in evidence.

Explanation—For the purposes of this section "Laboratory Test" means the analysis of a specimen of blood or of urine made at a laboratory established, maintained or recognised by the Central Government or a State Government.

128. *Presumption of Unfitness to Drive :*

In any proceeding for an offence punishable under Section 117, if it is proved that the accused, when requested by a police officer at any time so to do, has refused, omitted or failed to consent to the taking of or providing a specimen of his breath for a breath test or a specimen of his blood or urine for a laboratory test, his refusal, omission of failure may, unless reasonable cause therefor is shown, be presumed to be a circumstance supporting any evidence given on behalf of the prosecution, or rebutting any evidence given on behalf of the defence, with respect to his condition at that time.

No change.

129. *Power of Police Officer to Impound Document :*

(1) Any police officer authorised in this behalf or other person authorised in this behalf by the State Government may, if he has reason to believe that any identification mark carried on a motor vehicle or any licence permit, certificate of registration, certificate of insurance or other document produced to him by the driver or person in charge of a motor vehicle is a false document within the meaning of Section 464 of the Indian Penal Code (45 of 1861), seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle of such mark or document.

No change.

(2) Any police officer authorised in this behalf or other person authorised in this behalf by the State Government may, if he has reason to believe that the driver of a motor vehicle who is charged with any offence under this Act may abscond or otherwise avoid the service of a summons, seize any licence held by such driver and forward it to the Court taking cognizance of the offence and the said Court shall,

on the first appearance of such driver before it, return the licence to him/in exchange for the temporary acknowledgement given under sub-section (3).

(3) A police officer or other person seizing a licence under sub-section (2) shall give to the person surrendering the licence a temporary acknowledgement therefor and such acknowledgement shall authorise the holder to drive until the licence has been returned to him or until such details may be specified by the police officer or other person in the acknowledgement, whichever is earlier.

Provided that if any Magistrate, police officer or other person authorised by the State Government in this behalf, is on an application made to him, satisfied that the licence cannot be, or has not been, returned to the holder thereof before the date specified in the acknowledgement for any reason for which the holder is not responsible, the Magistrate, police officer or other person, as the case may be, may extend the period of authorisation to drive to such date as may be specified in the acknowledgement.

129-A. Power to Detain Vehicles used without Certificate or Registration or Permit :

Any police officer authorised in this behalf or other person authorised in this behalf by the State Government may, if he has reason to believe that a motor vehicle has been or being used in contravention of the provisions of Section 3 or 22 or without the permit required by sub-section (1) of Section 42 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, and for the purpose take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle :

Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used without the permit required by sub-section (1) of Section 42, he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgement in respect thereof.

Provide further that where a motor vehicle has been seized and/detained under this section for contravention of the provisions of Section 22, such vehicle shall not be released to the owner unless and until he produced a valid certificate of registration under this Act in respect of that vehicle.

129-B. The powers conferred under this act, on police officer, shall be exercisable only by the officers in uniform, not below the rank of sub-Inspector of Police.

130. Summary disposal of cases:

(1) The court taking cognizance of an offence under this Act—

- (i) may, if the offence is an offence punishable with imprisonment under this Act, and
- (ii) shall, in any other case, state upon the summons to be served on the accused person that he—
 - (a) may appear either in person or by pleader, or
 - (b) may by a specified date, prior to the hearing of the charges, remit to the Court, by money order, such sum not exceeding the maximum fine that

A slight modification is made to the existing provision. This section provides for it impounding of vehicle running without registration or without permit. An addition is made to the effect that vehicles driven by persons who does not have a driving licence, may also be impounded by the enforcement authorities.

This is a new provision. It is felt that giving powers under this Act right from the level of constables will not be in public interest. Powers to be exercised under this Chapter, should be so exercised by a senior-level and responsible person. In the case of police personnel the officer to be invested with authority should not be less than Sub-Inspector.

No change.

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For defending the case in the Court, the opportunity has to be given to the person to appear in person himself or through pleader. Earlier provision did not make this thing clear. In fact it had unintentionally debarred the person to appear himself.

If the court specifies the fine in the summon and the party remits the sum, he need not appear in the Court.

may be imposed for the offence, as the court may specify in the summons and plead guilty to the charge in the money order coupon itself.

- (c) provided that nothing in this sub-section shall apply to any offence as may be specified in the rules made by the Central Government.

(2) Where the offence dealt with in accordance with sub-section (1) is an offence specified in the rules as may be made in this regard by the Central Government, the accused person shall, if he pleads guilty to the charge, forward his licence to the Court with the letter or the money order as the case may be containing his plea in order that the conviction may be endorsed on the licence.

(3) Where an accused person pleads guilty and remits the sum specified and has complied with the provisions of sub-section (2), no further proceedings in respect of the offence shall be taken against him, nor shall he be liable to be disqualified for holding or obtaining a licence by reason of his having pleaded guilty.

131. *Restriction on conviction:*

No person prosecuted for an offence punishable under Section 115 or Section 116 shall be convicted unless—

No change.

- (a) he was warned at the time the offence was committed that the question of prosecuting him would be taken into consideration or
- (b) within fourteen days from the commission of the offence, a notice specifying the nature of the offence and the time and place where ■ is alleged to have been committed was served on or sent by registered post to him or the person registered as the owner of the vehicle at the time of the commission of the offence, or
- (c) within twenty-eight days of the commission of the offence a summons for the offence was served on him:

Provided that nothing ■ this section shall apply where the Court is satisfied that—

- (a) the failure to serve the notice or summons referred to in this sub-section was due to the fact that neither the name and address of the accused nor the name and address of the registered owner of the vehicle could with reasonable diligence have been ascertained in time, or
- (b) such failure was brought about by the conduct of the accused.

131-A. *Courts to send Intimations About Conviction :*

Every court by which any person holding a driving licence is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used, shall send intimation to—

No change.

- (a) the licensing authority which issued the driving licence, and
- (b) the licensing authority by whom the licence was last renewed, and every such intimation shall state the name and address of the holder of the licence, the licence number, the date of issue and renewal of the same, the nature of the offence, the punishment awarded for the same and such other particulars as may be prescribed.

132. Jurisdiction of courts:

(1) No court inferior to that of a Metropolitan Magistrate or ■ Magistrate of the second class shall try any offence punishable under this Act or any rule made thereunder.

(2) The State Government shall constitute special courts to try offences punishable under this Act or any rules made thereunder.

No change.

A new provision to speed up cases under this Act. The number of cases of traffic violations pending in the Courts has been said to be very high. These cases are now handled by regular courts, alongwith other cases. Because of paucity of time with regular courts, traffic cases have been pending. The delay in dealing with traffic violations breeds in the violators a total disregard for adhering to regulations. The requirements for Special Courts need no over-emphasis.



CHAPTER X

REASON AND JUSTIFICATION FOR THE PROPOSED CHANGES

MISCELLANEOUS

132-A Power to Levy Fee :

Any rule which the Central Government or the State Government is empowered to make under this Act may, notwithstanding the absence of any express provision to that effect, provide for the levy of such fees in respect of applications, amendments of documents, issue of certificates, licences, permits, tests, endorsements, badges, plates counter-signatures authorisation, supply of statistics or copies of documents or order and for any other purpose or matter involving the rendering of any service by the officers or authorities under this Act or any rule made thereunder as may be considered necessary :

No change in the existing provision.

Provided that the Government may, if it considers necessary so to do in the public interest, by general or special order, exempt any class of persons from the payment of any such fee either in part or in full.

133. Publication and Commencement of Rules:

(1) Every power to make rules given by this Act is subject to the condition of the rules being made after previous publication.

No change.

(2) All rules made under this Act shall be published in the Official Gazette, and shall unless some later date is appointed, come into force on the date of such publication.

No change.

(3) All rules made under this Act by any State Government shall be laid for not less than fourteen days before the State Legislature, as soon as possible after they are made, and shall be subject to such modification as such legislature may make during the session in which they are so laid.

No change.

(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudices to the validity of anything previously done under that rule.

No change.

(5) Every State Government making rules or amending rules under the powers given by this Act shall send a copy of the publication referred to in sub-section (2) to the Central Government in the Ministry of Transport, Department of Surface Transport within fourteen days of such publication.

No change.

It is felt that Department of Surface Transport should be made aware of the rules made by the State Government under this Act for administrative reasons. Hence the proposed provision.

133-(A) Appointment of Motor Vehicles Officer :

(1) The State Government may, for the purpose of carrying into effect the provisions of this Act, establish a Motor Vehicles department and appoint as officers thereof such persons as it thinks fit :

No change.

Provided that no person who does not possess a Diploma or degree in Mechanical or Automobile Engineering shall be appointed as Inspector of Motor vehicles.

(2) Every such officer shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

(3) The State Government may make rules to regulate the discharge by officers of the Motor Vehicles Department of their functions and in particular and without prejudice to the generality of the foregoing power to prescribe the uniform to be worn by them, the authorities to which they shall be subordinate, the duties to be performed by them, the powers (including the powers exercisable by police officers under this Act) to be exercised by them, and the conditions governing the exercise of such powers.

(4) In addition to the powers that may be conferred on any officer of the Motor vehicles Department under sub-section (3), such officer as may be empowered by the State Government in this behalf shall also have the power to,—

- (a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed ;
- (b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises which is in the occupation of a person who, he has reason to believe, has committed an offence under this Act or in which a motor vehicle in respect of which such offence has been committed is kept.

Provided that—

- (i) any such search without a warrant shall be made only by an officer of the rank of gazetted officer,
- (ii) where the offence is punishable with fine only the search shall not be made after sunset & before sunrise ;
- (iii) where the search is made without a warrant the officer concerned shall record in writing the grounds for not obtaining a warrant and report to his immediate superior that such search has been made;
- (e) examine any person and require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act ;
- (d) seize or take copies of any registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed ;
- (e) launch prosecutions in respect of any offence under this Act and to take a bond for ensuring the attendance of the offender before any court ;
- (f) Exercise such other powers as may be prescribed ;

Provided that no person shall be compelled under

Certificate of fitness in respect of a transport vehicle under Sec. 38 is granted by Motor Vehicle Inspector. The renewal of Registration of a non-transport vehicle under sub. sec.(4) of Sec. 24 is done by the Registering Authority based on the report of the Motor Vehicle Inspector. Though this officer plays a very important role to ensure the road worthiness of a motor vehicle, States do not have a uniform standard in the matter of prescribing technical qualification for person appointed to the post in keeping with the technological development that takes place in the manufacture of motor vehicles. It is felt that, persons holding at least a diploma in mechanical or automobile engg. should alone be appointed to this post.

No change.

No change.

No change.

No change.

No change.

No change.

No change.

No change.

this sub-section to answer any question or make any statement ending to incriminate himself.

(5) The provisions of the Code of Criminal Procedure 1973 (2 of 1974) shall so far as may be applied to any search or seizure under this section as they apply to any search of seizure under the authority of any warrant issued under Section 94 of that Code.

No change.

133 (B) *Constitution of Road Safety Councils*

The Central Government may by notification in the Official Gazette constitute for the country a National Road Safety Council and State Government may in like manner respectively constitute for the State, a State Road Safety Council and District Road Safety Committees to discharge the functions as may be specified in that notification.

This is a new provision to provide for creating of Road Safety Councils at National, State and District levels to suggest measures for accident prevention and analyse the cause of accidents and suggest remedial measures.

134. *Effect to Appeal and Revision on orders passed by Original Authority :*

(1) Where an appeal has been preferred or an application for revision has been made against any order passed by an original authority under this Act the appeal or the application for revision shall not operate as a stay of the order passed by the original authority and such order shall remain in force pending the disposal of the appeal or the application for revision as the case may be, unless the prescribed appellate authority or revisional authority otherwise directs.

(1-A) Notwithstanding anything contained in sub-section (1), if an application made by a person for the renewal of permit has been rejected by the original authority and such person has preferred an appeal or made an application for revision under this Act against such rejection, the appellate authority or, as the case may be, the revisional authority may by order direct that the permit shall, notwithstanding the expiration of the term specified therein, continue to be valid until the appeal or application for revision is disposed of.

(2) No order made by a competent authority under this Act shall be reversed or altered on appeal or revision on account of any error, omission or irregularity in the proceedings unless it appears to the prescribed appellate authority or revisional authority, as the case may be that such error, omission or irregularity has in fact, occasioned a failure of justice.

135. *:Repeal and Savings:*

(1) The enactments specified in the Fourth Schedule are hereby repealed to the extent mentioned therein.

No change.

(2) Notwithstanding the repeal of any enactment by this section.

(a) any notification, rule, regulation, order or notice issued or any appointment or declaration made, or any licence, permission or exemption granted, or any confiscation made, or any penalty or fine imposed, or any forfeiture cancellation or discharge of any bond ordered, or any other thing done, or any other action taken under the repealed enactment, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act.

No change.

(b) any document referring to any enactment hereby repealed, or to any provision thereof, shall be construed as referring to this Act or to the corresponding provisions of this Act.

(3) Any penalty payable under any repealed enactment may be recovered in the manner provided by or under this Act but without prejudice to any action already taken for the recovery of such penalty under the repealed enactment.

No change.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act 1897 (10 of 1897), with regard to the effect of repeals.

No change



APPENDIX

-
- .. Schedules
 - .. Rules
 - .. Forms
-



सत्यमेव जयते

SCHEDULE

FIRST SCHEDULE (EXISTING FOURTH SCHEDULE)
SECOND SCHEDULE (EXISTING EIGHTH SCHEDULE)
THIRD SCHEDULE (EXISTING NINTH SCHEDULE)

Stage Carriage Permits Conditions under sub section (2) of Section 48.

The following shall be the mandatory conditions of every stage carriage permit.

1. That the vehicle to which the permit relates carry valid certificates of fitness issued under section 38 and is at all times so maintained as to comply with the requirements of Chapter V and rules made thereunder.
2. That the vehicle to which the permit relates is not driven at a speed exceeding the speed lawful under this Act.
3. That any prohibition or restriction imposed and any fares or freights fixed by notification made under Section 43 are observed in connection with any vehicle to which the permit relates.
4. That the vehicle to which the permit relates is not driven in contravention of the provision of sub-section (1) of Section 3 or Section 72.
5. That the provisions of this Act limiting the hours of work of drivers are observed in connection with any vehicle to which the permit relates.
6. That the provisions of Chapter VIII so far as they apply to the holder of the permit are observed.
7. That the name and address of the operator shall be painted or otherwise firmly affixed to every vehicle to which the permit relates on the exterior of the body of that vehicle on both sides thereof in a colour or colours vividly contrasting to the colour of the vehicle centered as high as practicable below the window line in bold letters.
8. That no owner of a transport vehicle shall advertise in any news paper, book, list, classified directory or other publication unless there is contained in such advertisement appearing in such news paper, book, list, classified directory or other publication the permit number and the particulars of transport authority which granted the permit.

The Transport Authority may attach any one or more of the following conditions.

1. That the vehicle shall be used only in a specified area or on a specified route or routes.
 2. That the service or any specified part thereof shall be commenced with effect from a specified date.
 3. The minimum and maximum number of daily trips to be provided in relation to any route or area generally or on specified days and occasions.
 4. That copies of the time table of the service or of particular stage carriage approved by the Transport Authority shall be exhibited on the vehicle and at specified stands and halts on the route or within the area.
 5. That the service shall be operated within such margins of deviation from the approved time-table as the Transport Authority may from time to time specify.
 6. That within municipal limits and such other area and places as may be prescribed passenger or goods shall not be taken up or set down except at specified points.
 7. The maximum number of passenger and the maximum weight of luggage that may be carried on any specified vehicles or on any vehicle of a specified type; either generally or on specified occasions or at specified time and seasons.
 8. The weight and nature of passengers luggage that shall be carried free of charge, the total weight of luggage that may be carried in relation to each passenger and the arrangements that shall be made for the carriage of luggage without causing inconvenience to passengers.
 9. The rate of charge that may be levied for passengers luggage in excess of the free allowance.
 10. That vehicles of specified types fitted with bodies conforming to approved specifications shall be used.
- Provided that the attachment of this condition to a permit shall not prevent the continued use, for a period of two years from the date of publication of the approved specification, of any vehicle operating on that date.
11. That specified standards of comfort and cleanliness shall be maintained in the vehicle.

12. The conditions subject to which goods may be carried in any stage carriage in addition to or to the exclusion of passengers.

13. That fares shall be charged in accordance with the approved fare table.

14. That a copy of, or extract from, the fare table approved by the Transport Authority and particulars of many special fares or rates of fares so approved for particular occasion shall be exhibited on every stage carriage and at specified stands and halts;

15. That tickets bearing specified particulars shall be issued to passengers and shall show the fares actually charged and that records of tickets issued shall be kept in specified manner.

16. That the mails shall be carried on any of the vehicles authorised by the permit subject to such conditions (including conditions as to the time in which mails are to be carried and the charges which may be levied) as may be specified.

17. The reserve of vehicles to be kept by the holder of the permit to maintain the service and to provide for special occasions.

18. The conditions subject to which any vehicle covered by the permit may be used as a contract carriage.

19. That specified arrangements shall be made for the housing, maintenance and repair of vehicles.

20. That any specified bus station or shelter maintained by Government or a local authority shall be used and that any specified rent or fee shall be paid for such use.

21. That the conditions of the permit shall not be departed from, save with the approval of the Transport Authority.

22. That the Transport Authority may, after giving notice of not less than one month—

(a) vary the conditions of the permit;

(b) attach to the permit further conditions :

(Provided that the conditions specified in pursuance of clause (a) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometres, and any variation within such limits shall be made only after the Transport Authority is satisfied that such variation will serve the public convenience and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof;)

23. That the holder of a permit shall furnish to the Transport Authority such periodical returns, statistics and other information as the State Government may from time to time prescribe.

24. Any other conditions which may be prescribed.

Contract Carriage Permits—Conditions under Sub section (2) of Section 51.

The following shall be mandatory conditions :

1. That the vehicle to which the permit relates carry valid certificates of fitness issued under section 38 and is at all times so maintained as to comply with the requirements of Chapter V and the rules made thereunder.

2. That the vehicle to which the permit relates is not driven at a speed exceeding the speed lawful under this Act.

3. That any prohibitions or restrictions imposed and any fare or freights fixed by notification made under section 43 are observed in connection with any vehicle to which the permit relates.

4. That the vehicle to which the permit relates is not driven in contravention of the provisions of, sub-section (1) of section 3 or section 72.

5. That the provisions of this Act limiting the hours of work for drivers are observed in connection with any vehicle to which the permit relates.

6. That the provisions of Chapter VIII so far as they apply to the holder of the permit are observed.

7. That the name and address of the operator shall be painted or otherwise firmly affixed to every vehicle to which the permit relates on the exterior of the body of that vehicle on both sides thereof in a colour or colours vividly contrasting to the colour of the vehicle centered as high as practicable below the window line in bold letters.

8. That no owner of a transport vehicle shall advertise in any news paper, book, list, classified directory or other publication unless there is contained in such advertisement appearing in such newspaper, book, list, classified directory or other publication the permit number and the particulars of the transport authority which granted the permit.

The transport authority may attach any one or more of the following conditions.

1. That the vehicle or vehicles shall be used only in a specified area or on a specified route or routes.
2. That except in accordance with specified conditions, no contract of hiring, other than an extension or modification of a subsisting contract, may be entered into outside the specified area.
3. The maximum number of passengers and the maximum weight of luggage that may be carried on any specified vehicle or on any vehicle of a specified type either generally or on specified occasions or at specified time and seasons and the same is prominently marked on the vehicle.
4. The conditions subject to which goods may be carried in any contract carriage in addition to or to the exclusion of passengers.
5. That, in the case of motor cabs, specified fares shall be charged and a copy of the fare table shall be exhibited on the vehicle.
6. That, in the case of vehicles other than motor cabs, specified rates of hiring not exceeding specified maximum shall be charged.
7. That, in the case of motor cabs, a specified weight of passengers luggage shall be carried free of charge, and that the charge if any, for any luggage in excess thereof shall be at a specified rate.
8. That, in the case of motor cabs, the taxi-meter shall be fitted and maintained in proper working order, if prescribed.
9. That the Transport Authority may, after giving notice of not less than one month.
 - (a) vary the conditions of the permit;
 - (b) attach to the permit further conditions.
10. That the conditions of permits shall not be departed from save with the approval of the Transport Authority
11. Any other conditions which may be prescribed.

Specifying conditions of Permits in respect of Private Service vehicles under sub section (3) of Section 53.

The following shall be the mandatory conditions :

- (1) That the vehicle to which the permit relates carry valid certificates of fitness issued under section 38 and is at all times so maintained as to comply with the requirements of Chapter V and rules made thereunder.
- (2) That the vehicle to which the permit relates is not driven at a speed exceeding the speed lawful under this Act.
- (3) That any prohibition or restriction imposed by notification made under section 43 are observed in connection with any vehicle to which the permit relates.
- (4) That the vehicle to which the permit relates is not driven in contravention of the provision of sub-section (1) of section 3 or section 72.
- (5) That the provisions of this Act limiting the hours of work of drivers are observed in connection with any vehicle to which the permit relates.
- (6) That the provisions of Chapter VIII so far as they apply to the holder of the permit are observed.
- (7) That the name and address of the operator shall be painted or otherwise firmly affixed to every vehicle to which the permit relates on the exterior of the body of that vehicle on both sides thereof in a colour or colours vividly contrasting to the colour of the vehicle centered as high as practicable below the window line in bold letters.
- (8) The Transport Authority may attach any other conditions that may be prescribed.

Goods Carrier Permits—Conditions under sub section (2) of Section 55.

The following shall be mandatory conditions of every carrier permit.

- (1) That the vehicle to which the permit relates carry valid certificates of fitness issued under section 38 and is at all times so maintained as to comply with the requirements of Chapter V and the rules made thereunder.
- (2) That the vehicle to which the permit relates to not driven at a speed exceeding the speed lawful under this Act.
- (3) That any prohibition or restriction imposed and any freights fixed by notification made under section 43 are observed in connection with any vehicle to which the permit relates.
- (4) That the vehicle to which the permit relates is not driven in contravention of the provisions of sub Section (1) of Section 3 of Section 72.
- (5) That the provisions of this Act limiting the hours of work of drivers are observed in connection with any vehicle to which the permit relates.
- (6) That the provisions of Chapter VIII so far as they apply to the holder of the permit are observed.
- (7) That the name and address of the operator shall be painted or otherwise firmly affixed to every vehicle to which the permit relates on the exterior of the body of that vehicle on both sides thereof in a colour or colour vividly contrasting to the colour of the vehicle in bold letters.
- (8) That no owner of a transport vehicle shall advertise in any newspaper, book, list, classified directory or other publication unless there is contained in such advertisement appearing in such newspaper, book, list, classified directory or other publication the permit number and the particulars of the transport authority which granted the permit.

The Transport Authority may attach to the permit any one or more of the following conditions.

- (1) That the vehicle shall be used only in a specified area, or on a specified route or routes.
- (2) That the laden weight of any vehicle used shall not exceed a specified maximum.
- (3) That goods of specified nature shall not be carried.
- (4) That goods shall be carried at specified rates.
- (5) That specified arrangement shall be made for the housing, maintenance and repair of vehicles and the storage and safe custody of the goods carried.
- (6) That the holder of the permit shall furnish to the Transport Authority such periodical returns, statistics and other information as the State Government may from time to time, prescribe.
- (7) That the Transport Authority may after giving notice of not less than one month
 - (a) vary the conditions of the permit;
 - (b) attach to the permit further conditions.
- (8) That the conditions of the permit shall not be departed from save with the approval of the Transport Authority
- (9) That hazardous chemicals and other dangerous goods shall not be carried except as per the condition laid down by transport authority.
10. Any other conditions that may be prescribed.

DRAFT OVERALL DIMENSIONS OF TRANSPORT VEHICLES AND TYRES RULES, 1986.

1. Short title Extent and Commencement.

- (1) These rules may be called Overall Dimensions of Transport Vehicles and Tyres Rules, 1986.
- (2) They shall come into force on the date of their publication in the official Gazette.

2. Definition

In these rules, unless there is anything repugnant in the subject or context :—

- (i) "Act" means the Motor Vehicles Act, 1986;
- (ii) The words and expression used, but not defined in these rules, but defined in Motor Vehicles Act, 1986, shall have the meanings assigned to them in that Act.

3. Overall width of motor vehicles

(1) The overall width of every vehicle measured at right angles to the axis of the motor vehicle between perpendicular planes enclosing the extreme points shall not exceed :—

- (i) in the case of any motor vehicle excluding a public service vehicle or a transport vehicle but including a motor cab, 2.2 metres ;
- (ii) in the case of a public service vehicle or a transport vehicle other than a motor cab, 2.5 metres.

Provided that, in the case of a tractor not used for towing trailers carrying goods or passengers the overall width may extend to 2.7 metres.

Explanation : For the purpose of this rule, rubrails, a driving mirror or a direction indicator, when in operation, shall not be taken into consideration in measuring the overall width of a motor vehicle.

4. Overall length of motor vehicles.

(1) The overall length of every motor vehicle other than a trailer shall not exceed ;

- (i) in the case of any motor vehicle other than a transport vehicle, or a private service vehicle having not more than 2 axles, 9.5 metres ;
- (ii) in the case of a transport vehicle or a private service vehicle; having two or more axles, 11 metres ;
- (iii) in the case of an articulated vehicle having more than two axles, 16 metres ;
- (iv) in the case of truck-trailer combinations, 18 metres;

Provided that in such areas or on such routes as the State Govt. may specify in this behalf an overall length of a public/private service vehicle other than goods or carriers may exceed 11 metres but shall not exceed 12 metres at a speed exceeding twenty five kilometers per hour, the overall length may extend upto 18 metres.

*Explanation :—*In this rule “overall length” means the length of the vehicle measured between parallel planes passing through the extreme projection points of the vehicle exclusive of,—

- (i) any starting handle;
- (ii) any hood when down;
- (iii) any ladder forming part of a turn table fire-escape fixed to a vehicle;
- (iv) any post office letter box the length of which measured parallel to the axis of the vehicle does not exceed 30.5 centimetres;
- (v) any ladder used for loading or unloading from the roof of the vehicle; or any tail or indicator lamp or number plate fixed to a vehicle;
- (vi) any spare wheel or spare wheel bracket or bumper fitted to a vehicle;
- (vii) any towing hook or other fitment which does not project beyond any fitment covered by clauses (iii) to (vi) of this sub-rule.

5. Overall height of motor vehicles.

(1) The overall height of a motor vehicle other than a double-decked motor vehicle measured from the surface on which the motor vehicle rests shall not exceed 3.8 metres.

(2) The overall height of a double-decked motor vehicle shall not exceed 4.75 metres;

(3) The overall height of the laden trailer when carrying ISO series I Freight Container shall not exceed 4.2 metres.

(4) This rule shall not apply to fire-escapes, town-wagons and other special purpose vehicles exempted by the general or special order of the registering authority,

6. Overhang of motor vehicles

(1) The overhang of a tractor shall not exceed 1.85 metres.

(2) The overhang of a motor vehicle other than a tractor shall not exceed sixty per cent of the distance between the plane perpendicular to the axis of the motor vehicle which passes through the centre or centres of the front wheel or wheels and the foremost vertical plane from which the overhang is to be measured.

Explanation :—For the purpose of this rule, “overhang” means the distance measured horizontally and parallel to the longitudinal axis of the vehicle between two vertical planes at right angles to such axis passing through the two points specified respectively in paragraphs I and II below.

I. The rearmost point of the vehicle exclusive of—

- (i) any hood when down;
- (ii) any post office letter-box, the length of which, measured parallel to the longitudinal axis of the vehicle, does not exceed thirty centimetres ;
- (iii) any ladder forming part of a turn-table fire-escape fixed to a vehicle;
- (iv) any ladder used when the vehicle is at rest for loading or unloading from the roof of the vehicle, or any tail lamp or number plate fixed to a vehicle;
- (v) any spare wheel or spare wheel bracket fitted to a vehicle;
- (vi) any luggage carrier fitted to a motor vehicle constructed solely for carriage of passengers and their effects and adapted to carry not more than seven passengers exclusive of the driver;
- (vii) any towing hook or other fitment which does not project beyond any fitment mentioned in sub-paragraphs (ii) to (vi) above.

Provided that, in the case of a stage carriage—

- (a) the projection of any bumper or advertisement panel fitted at the rear of the vehicle shall not exceed 15 centimetres; and
- (b) the projection in respect of an advertisement panel shall not be such as to obstruct either the vision from the rear view mirror or project through the emergency exit at the rear or both.

- II. (i)** In the case of a motor vehicle having only two axles, one of which is not a steering axle, the centre point of that axle, or
- (ii) In the case of a motor vehicle having only three axles where the front axle is the only steering axle, a point 102 millimetres in rear of the centre of a straight line joining the centre points of the rear and middle axle, or
 - (iii) In any other case a point situated on the longitudinal axis of the vehicle and such that a line drawn from it at right angles to that axis will pass through the centre of the minimum turning circle of the vehicle.
 - (iv) In the case of any motor vehicle registered in India before the first day of April 1940, it shall suffice if the overhang does not exceed 7/24th of the overall length of the vehicle.
 - (v) In case of a motor vehicle having only three axles where two front axles are steering axles, the centre point of rear most axle.
 - (vi) In case of a motor vehicle having four axles where two front axles are steering axles, a point 102 millimetres in rear of the centre of a straight line joining the centre points of the rear-most two axles.

7. Side Overhang of stage carriages

In the case of vehicle used as a stage carriage, no part of the vehicle other than a direction indicator, when in operation, or a driving mirror shall project laterally more than 355 millimetres beyond the centre line of the rear wheels in the case of single rear wheels or more than 152 millimetres beyond the extreme outer edge of the outer tyres in the case of dual rear wheels.

8. Turning Circle

Every motor vehicle shall be so constructed as to be capable of turning in either direction in a minimum turning circle not exceeding 24.4 metres in diameter. For the purpose of this rule, such diameter shall be determined by reference to extreme outer edge of the wheel track at ground level,

9. Size and nature of Tyres

The following size of tyres shall be fitted to a motor vehicle for carrying the maximum weight shown against each size of tyre together with the ply-rating specified by the manufacturer of tyres :

Size of Tyre	Ply-rating specified by the manufacturers	Maximum weight permitted to carry Kgs.
6.00—20	8	1065
6.50—20	8	1240
7.00—17	8	1170
7.00—20	10	1495
7.50—20	10	1750
7.50—20	12	1870
8.25—20	10	1890
8.25—20	12	2115
8.25—20	14	2180
9.00—20	10	2245
9.00—20	12	2540
9.00—20	14	2730
9.00—20	16	2820
10.00—20	14	2955
10.00—20	16	3170
10.00—24	14	3270
10.50—16	12	2540
10.50—16	16	2965
11.00—20	14	3250
11.00—20	16	3595
11.00—24	14	3550
12.00—20	14	3415
12.00—20	16	3655
12.00—20	18	4065
14.00—20	18	4950
14.00—20	20	5140
14.00—20	22	6240

LIGHT TRUCK TYRES (DIAGONAL)

6.00—16	6	715
6.00—16	8	840
6.50—16	6	805
6.50—16	8	945
6.70—15	8	905
7.00—15	6	865
7.00—15	8	1020
7.00—15	10	1155
7.00—16	6	895
7.00—16	8	1065
7.00—16	10	1200
7.50—16	8	1215
7.50—16	10	1380
7.50—16	12	1550

Size of Tyre	Ply rating specified by the manufacturers	Maximum weight permitted to carry
		Kgs.
AGRICULTURE STEERING WHEEL TRACTOR TYRES (DIAGONAL PLY)		
4.00—19	4	445
5.50—16	4	530
5.50—16	6	655
6.00—16	4	565
6.00—16	6	700
6.00—19	4	640
6.00—19	6	800
6.50—16	4	640
6.50—16	6	770
6.50—20	4	750
6.50—20	6	905
AGRICULTURE DRIVE WHEEL TRACTOR TYRES (DIAGONAL PLY)		
8.3/8—24	4	780
8.3/8—24	6	1015
8.3/8—32	4	895
8.3/8—32	6	1150
11.2/10—28	4	1125
11.2/10—28	6	1395
11.2/10—28	8	1630
12.4/11—24	4	1180
12.4/11—24	6	1500
12.4/11—28	4	1255
12.4/11—28	6	1595
12.4/11—28	8	1890
12.4/11—36	4	1420
12.4/11—36	6	1800
12.4/11—38	4	1455
12.4/11—38	6	1850
13.6/12—28	4	1375
13.6/12—28	6	1790
13.6/12—28	8	2055
13.6/12—38	6	2075
13.6/12—38	8	2390
16.9/14—28	6	2300
16.9/14—28	8	2720
16.9/14—30	6	2375
16.9/14—30	8	2805
18.4/15—30	10	3520
18.4/15—30	12	3975
18.4/15—30	14	4255

10. (i) Every transport vehicle shall be fitted with tyres which are in good condition and which have not become bald or whose canvass has become visible because of wear and tear.

Solid Tyres

11. (i) The tyre of each wheel of a vehicle fitted with solid tyres shall be smooth and shall, where the tyre touches the surface of the road or other base, whereon the vehicle moves or rests, be flat ;

Provided that the edges of the tyre may be as rounded to the extent in the case of each edge of not more than 12.5 millimetres :

Provided further that if the tyre is constructed of separate plates, the plates may be separated by parallel spaces, which shall be disposed throughout the outer surface of the tyres, so that nowhere shall be aggregate extent of the space of spaces in the course of a straight line drawn horizontally across the circumference of the wheel exceed one-eighth part of the width of the tyre.

(ii) The width of a solid tyre shall not be less than 76 millimetres in the case of a wheel fitted to a trialer and 127 millimetres in any other case.

(iii) In the case of vehicles fitted with worn solid rubber tyre the thickness shall be uniform and not less than shown below :—

Tyre Width	Minimum uniform thickness
127 millimetres	22 millimetres
127 millimetres—203 millimetres	25.4 millimetres
203 millimetres and upwards	23.5 millimetres

Provided two tyres are fitted to a rim the width for the purposes of this rule shall be the combined width of the two tyres.

12. Size of wheels

The diameter of any wheel fitted by a vehicle with solid tyres shall not be less than 60 centimetres.

13. Repeal and saving

(i) The Over-all Dimensions of Transport Vehicles and Tyres Rules, 1982 are hereby repealed.

(ii) Notwithstanding such repeal, anything done or any action taken under the said rules shall be deemed to have been done or taken under the corresponding provisions of these rules.

DRAFT MOTOR VEHICLES (THIRD PARTY) INSURANCE (AMENDMENT) RULES, 1986.

1. (1) These rules may be called the Motor Vehicles (Third Party Insurance) (Amendment) Rules, 1986.

(2) They shall come into force on the date of their publication in the official gazette.

2. In the rule 15B of the Motor Vehicles (Third Party Insurance) Rules, 1946, for sub rule 3, substitute as under :—

“(3) When the fund exceeds Rs. 5 lakhs or Rs. 2,500 per vehicle for the entire running fleet, which ever is more, the annual payment referred to in sub-rule 2 shall cease provided that if thereafter the amount at the credit of the fund falls below Rs. 5 lakhs or Rs. 2,500 per vehicle for the entire fleet, whichever is more, such annual payment shall again be resumed.”

Registration Mark—A new System

Under Section 24(1) every motor vehicle has to be registered. The registration mark is assigned in the manner prescribed by the Central Govt. At present the Central Govt. is allotting 2 letters in the alphabet to represent the States and the 3rd letter representing the registering district allotted by the State concerned. This is followed by a number with a four digit. In view of the tremendous increase in the number of motor vehicles on the road, especially several types of two-wheelers which are also required to be registered under the Motor Vehicles Act, the assignment of numbers and distinguishing mark is facing a big problem. With the present procedure it will be difficult to satisfy the provisions of the Motor Vehicles Act by allotting numbers. Representations have been received from States of Bihar, Punjab, Gujarat and some private agencies giving various suggestions for number plates including allotment of five digit number instead of representing four digits. The question has to be examined in detail. After careful examination it is considered that the assignment of numbers may be as follows :—

For the last over four decades the people are accustomed to the letters in the number plates representing the States. For instance if the number is TN or DL it is known as the vehicle belongs Tamil Nadu or Delhi. It is, therefore, felt that the same two letters which are in vogue now may be continued to indicate the State to which the vehicle belong. Present 3rd alphabet is used to represent the registering district. In actual practice this causes serious problems because when the number of vehicles registered crosses 9999, the State should find another alphabet to represent the registering district. Since the number of districts are many in a State the existing procedure is not practicable since there may be repetition of same alphabets for different States. It is, therefore, felt that instead of allotting alphabet for the district it could be by a figure. The existing four digit serial number can be continued to be maintained :—

AP 22	22
9999	9999

ANDHRA PRADESH

The above is a specimen of the number plate now suggested. The words 'AP' represent the State, 22 represent the registering district followed by four digit numbers. If 9999 vehicles are already covered, the registering district can start another series with the letter beginning from 'A', namely, AP-22A or AP-22. Such a procedure will

9999 A. 9999

take care of 2,69,973 vehicles in one registering district. Only in metropolitan cities like Delhi, Bombay, Madras, Calcutta there are large number of motor vehicles. In every district headquarters there would not be any problem since the vehicular population is less. Even in metropolitan cities now there are 3 or 4 registering districts like RTO, West, North, South. That means the entire vehicular population in the metropolis is divided among the four or more RTOs and, therefore, even if the vehicle population in a metropolis is large, each RTO may have only 2,50,000 vehicles and the procedure suggested cannot pose any serious problem, since it can accommodate 2,69,973 vehicles. The draft notification proposed is as follows :—

Notification regarding assessment of Registration Mark to Motor Vehicles

In exercise of the powers conferred under Section 24(3) of the Motor Vehicles Act, the Central Govt. hereby issues the following group of letters :—

1. Andhra Pradesh	AP	16. Punjab	PN
2. Assam	AS	17. Rajasthan	RS
3. Bihar	BH	18. Tamil Nadu	TN
4. Gujarat	GU	19. Tripura	TR
5. Haryana	HR	20. Uttar Pradesh	UP
6. Himachal Pradesh	HP	21. West Bengal	WB
7. Jammu & Kashmir	JK	22. The Andaman & Nicobar Islands	AN
8. Karnataka	KN	23. Arunachal Pradesh	AR
9. Kerala	KL	24. Chandigarh	CH
10. Madhya Pradesh	MP	25. Dadra and Nagar Haveli	DN
11. Maharashtra	MR	26. Goa, Daman and Diu	GD
12. Manipur	MN	27. Delhi	DL
13. Meghalaya	MG	28. Laksha Deweep	LD
14. Nagaland	NL	29. Mizoram	MZ
15. Orissa	OS	30. Pondicherry	PO

2. The registering authority shall assign to each motor vehicle a distinct mark consisting of the group of letter as are allotted to the States in para 1., followed by a number to represent the registering district as may be allotted by the State Govt. through official Gazette notification. It shall be followed by number containing not more than four digits as follows :—

AP 22

9999

where AP represents the State, 22 represents the registration district, 9999 represents the serial no. of the vehicle. When 9999 vehicles are covered, the registering authority can start another series with the letter beginning from 'A' is 22A. The figures aforesaid shall be showed in arabic numerals and the number plate shall be shown.

- (i) in the case of transport vehicles in black on white ground;
- (ii) in the case of motor vehicles temporarily registered in red on a yellow ground;
- (iii) in the case of motor vehicles in possession of dealers in white on a red ground;
- (iv) in other cases in white on a black ground.

The number plate shall be of the size provided that in the case of number plates of motorcycles the State Govt. may prescribe of smaller size.

Rules of the Road

(See sub. sec (3) of sec. 5)

1. **Keep Left**—The driver of a motor vehicle shall keep as close to the left hand side of the road as may be expedient & shall allow all traffic which is proceeding in the opposite direction to pass him on his right hand side.

2. **Turning to Left & Right**—The driver of a motor vehicle shall :

- (a) When turning to the left, keep as close as may be to the left hand side of the road from which he is making the turn and of the road which he is entering.
- (b) When turning to the right draw as near as may be to the centre of the road along which he is travelling and drive as near as may be at the left hand side of the road which the driver is entering.

3. **Passing to the Right**—Except as provided in regulation 4 the driver of a motor vehicle shall pass to the right of all traffic proceeding in the same direction as himself.

4. **Passing to the Left**—The driver of a motor vehicle may pass to the left of either a vehicle the driver of which having indicated an intention to turn to the right has drawn to the centre of the road and may pass on either side, a tram car or other vehicle running on fixed rails whether travelling in the same direction as himself or otherwise provided that in no case shall he pass a tram car at a time or in a manner likely to cause danger or inconvenience to other users of the road including persons leaving or about to enter Tram Cars.

5. **Overtaking Prohibited in certain Cases**—The driver of a motor vehicle shall not pass a vehicle travelling in the same direction as himself :

- (a) If his passing is likely to cause inconvenience or danger to other traffic proceeding in any direction, or
- (b) If he is near a bend or corner of a hill or other obstruction of any kind that renders the road ahead not clearly visible.
- (c) If he knows that the driver who is following him has begun to overtake him.
- (d) If the driver ahead of him has not signalled that he may be overtaken.

6. **Overtaking not to be Obstructed**—The driver of a motor vehicle shall not, when being overtaken or being passed by another vehicle, increase speed or do any thing in any way to prevent the other vehicle from passing him.

7. **Caution at Road Junction**—The driver of a motor vehicle shall slow down when approaching a road intersection, a road junction or a road corner; and shall not enter any such intersection or junction until he has become aware that he may do so without endangering the safety of persons thereon.

8. **Giving Way to Traffic at Road Junction**—The driver of a motor vehicle, shall, on entering a road intersection, at which traffic is not being regulated, if the road entered is a main road designed as such, give way to the vehicles proceeding along that road, and in any other case give way to all traffic approaching the intersection on his right hand.

9. *Fire Service Vehicles and Ambulance to be given Free Passage*—Every driver shall, on the approach of a Fire Service vehicle proceeding to an incident which shall be indicated by the illuminated FIRE sign and continuous sounding of an electric or manipulated Bell or of an Ambulance allow it free passage by drawing to the side of the road.

10. *Right of Way*—The pedestrians have the right of way at uncontrolled pedestrian crossings. When any road is provided with footpath or cycle tracks or specially for other traffic, except with permission of a police officer in uniform, you should not drive on such footpath or track.

11. *Taking 'U' Turn*—No driver shall take a 'U' turn where 'U' turn is specially prohibited and on busy traffic road. If a 'U' turn is allowed the driver should show signal by hand as for a right turn, watch in the rear view mirror and turn when safe to do so.

12. *Signals to be given by Drivers*—The following signals shall be used by the drivers of all motor vehicles:

- (a) When about to slow down, a driver shall extend his right arm with the palm downward and to the right of the vehicle and shall move the arm so extended up and down several times in such a manner that the signal can be seen by the driver of any vehicle which may be behind him.
- (b) When about to stop, a driver shall raise his right forearm vertically outside of and to the right of the vehicle, palm to the front.
- (c) When about to turn to the right or to drive to the right hand side of the road in order to pass another vehicle or for any other purpose, a driver shall extend his right arm in a horizontal position outside of and to the right of his vehicle with the palm of the hand turned to the front.
- (d) When about to turn to the left or to drive to the left hand side of the road, a driver shall extend his right arm and rotate it in an anti-clockwise direction.
- (e) When a driver wishes to indicate to the driver of a vehicle behind him that he desires that driver to overtake him he shall extend his right arm and hand horizontally outside of and to the right of the vehicle and shall swing the arm backwards and forward in a semi-circular motion.

NOTE :—The overtaking driver is responsible for satisfying himself that he can overtake with safety.

13. *Direction Indicators* :—Any driver of a vehicle may signify his intention to turn to the right or left by means of a suitable mechanical device permanently fitted to the vehicle and illuminated at night by an amber light or by means of electrically operated indicating lights.

14. *Parking of the Vehicle*—Every driver of a motor vehicle parking on any road shall park in such a way that it should not cause or likely to cause danger, obstructions or undue inconvenience to other road users and if the manner of parking is indicated by any sign board or markings in the road side, shall park his vehicle in such manner.

15. *No Driver shall Park the Vehicle*—(i) At or near a road crossing a bend, top of a hill or a humpbacked bridge.

(ii) On a foot-path.

(iii) Near a traffic lights or pedestrian crossing.

(iv) In a main road or one carrying fast traffic.

(v) Opposite another parked vehicle or as obstruction to other vehicle.

(vi) Along side another parked vehicle.

(vii) On roads or at places on roads where there is a continuous white line with or without a broken line.

(viii) Near a bus stop, school or hospital entrance or blocking a traffic sign or entrance to a premises or a fire hydrant.

(ix) On the wrong side of the road at night or day time.

(x) Where parking is prohibited.

(xi) Far away from the edge of the foot path.

16. *Use of Lights*—1. The driver shall switch on the lights of the vehicle during the period between half an hour after sunset & half an hour before sunrise or when there is not sufficient light to render clearly discernible persons and vehicles on the road at a distance of one hundred and fifty five meters ahead.

2. The driver of a motor vehicle shall at all times when the lights of motor vehicle are in use so manipulate them that danger or undue inconvenience is not caused to any person by dazzle.

3. The driver shall see that the lights should not be obstructed and the registration mark at the rear of the vehicle should also be illuminated.

4. The head lights, parking lights, rear red tail lamp, brake stop light & rear registration illuminating lamp should always be kept in good working condition.

17. *Visibility of Lamps and Registration Marks*—1. No load or other goods shall be placed on any motor vehicle so as at any time to mask or otherwise interrupting vision of any lamp, registration mark or other mark required to be carried by or exhibited on any motor vehicle by or under the provisions of the Act, unless a duplicate of the lamp or mark so marked or otherwise obscured is exhibited in the manner required by or under the Act for the exhibition of the marked or obscured lamp or mark.

2. All registration and other marks required to be exhibited on a motor vehicle by or under the provisions of the Act shall at all times be maintained as far as may be reasonably possible in a clear and legible condition.

18. *One Way Traffic*—(i) A driver shall not drive a motor vehicle on roads declared "One Way" except in the direction specified by sign boards.

(ii) Drive a vehicle in a reverse direction into a road designated as "One way".

24. Driving on channelised roads :

A

B

C

(i) Left lane A for slow moving vehicles and vehicles turning left

(ii) Middle one B or two lanes for normal traffic and going straight.

(iii) Right lane C for fast traffic and traffic turning right.

normally drive in middle lane. When you want to overtake, overtake through the right lane and come back gradually to your lane.

19. *Stop Sign on Road Surface*—(i) When any line is painted on or inlaid into the surface of any road at the approach to a road junction or to a pedestrian crossing or otherwise, no driver shall drive a motor vehicle so that any part thereof projects beyond that line at any time when a signal to stop is being given by a police officer or by means of a traffic control lights or by the display of any traffic sign.

(ii) A line for the purposes of this rule shall be not less than 50 millimetres in width at any part and may be either in white, black or yellow.

20. *Unguarded Railway Level Crossings*—Every driver of a motor vehicle shall, at the approach of any unguarded railway level crossing, stop the vehicle to check and see both sides of the track to ensure that the way is clear and shall proceed only when he is convinced that no train is approaching from either direction.

21. *Towing*—1. No vehicle other than a mechanically disabled or incompletely assembled motor vehicles, a registered trailer or a side car, shall be drawn or towed by any motor vehicle.

2. No motor vehicle shall be drawn or towed by any other motor vehicle unless there is in the driver's seat of the motor vehicle being drawn or towed a person holding a licence authorising him to drive the vehicle or unless the steering wheel of the motor vehicle being towed, are firmly and securely supported clear of the road surface by some crane or other device on the vehicle which is drawing or towing it.

3. When a motor vehicle is being towed by another motor vehicle the clear distance between the rear of the front vehicle and the front of the rear vehicle shall at no time exceed five meters. Steps shall be taken to order the tow ropes or chain easily distinguished by other road users of the road, and there shall be clearly displayed on the rear of the vehicle being towed in block letters not less than seventy five millimeters high and on a white ground the words 'ON TOW'.

4. No motor vehicles when towing another vehicle other than a trailer or side car shall be driven at a speed exceeding twenty four kilometer per hour.

22. Use of Horns and Silence Zones—(i) A driver of a vehicle shall not sound the horn needlessly or continuously or more than necessary to ensure safety.

(ii) Sound the horn in silence zones.

(iii) Make use of a cut-out by which exhaust gases are released other than through the silencer.

(iv) Fit or use any multitoned horn giving an unduly harsh, shrill, low or alarming noise.

(v) Drive a vehicle creating undue noise when in motion.

(vi) Drive a vehicle with a muffler causing alarming sound.

23. Traffic Sign and Traffic Police—A driver of a Motor vehicle and every other person using the road shall obey :

(a) every direction given whether by signal or otherwise by a police officer or any authorised person for the time being in-charge of the regulation of traffic.

(b) any direction applicable to him and indicated on or by a notice, traffic sign or signal fixed or operated by competent authority.

(c) any direction indicated by automatic signalling devices fixed at road intersections.

24. Keep Sufficient Distance from Vehicles in Front :—The driver of a vehicle moving behind another vehicle shall keep at a sufficient distance from that other vehicle to avoid collision if the vehicle in front should suddenly slow down or stop.

25. Abrupt Brake—No driver of a vehicle shall apply brake abruptly unless it is necessary to do so for safety reasons.

26. Vehicles going Uphill to be given Precedence—On mountain roads & steep roads, the driver of the vehicle travelling down hill shall give precedence to a vehicle going uphill wherever the road is not sufficiently wide to allow the vehicles to pass each other freely without danger, and stop the vehicle to the side of the road in order to allow any vehicle proceeding uphill to pass.

27. Obstruction of Driver—A driver of a vehicle shall not allow any person to stand or sit or anything to be placed in such a manner or position as to hamper his control of the vehicle.

28. Speed to be Restricted—The driver of a motor vehicle shall, when passing or meeting a procession or a body of troops or police on the march or when passing workmen engaged on road repair, drive at a speed not greater than 25 km an hour.

29. Driving of Tractors and Goods Vehicles—A driver when driving a tractor shall not carry or allow any person to be carried on tractor. A driver of a goods carrier shall not carry in the drivers cabin more number of persons than that is mentioned in the registration certificate and shall not carry passengers for hire or reward.

30. Projection of Loads—1. No person shall drive, in any public place any motor vehicle which is loaded in a manner likely to cause danger to any person or in such a manner that the load or any part thereof or anything extends or laterally beyond the side of the body or to the front or to the rear or in height beyond the permissible limit.

2. When the vehicle is carrying any goods projecting to the rear, the driver shall attach to the rear of such pole or other thing in such a way as to be clearly visible from the rear at all times a white circular disc of not less than 38 centimetres in diameter; and during the period commencing half-an-hour after sunset and ending half-an-hour before sunrise, a lamp in addition to the prescribed lamps on the vehicle so arranged as to show a red light to the rear.

31. Restriction as to Carriage of Dangerous Substances—Except for the fuel and lubricants necessary for the use of the vehicle, no explosives, highly inflammable or otherwise dangerous substance, shall be carried on any public service vehicle unless it is so packed that, even in the case of an accident to the vehicle it is unlikely to cause damage or injury to the vehicle or persons carried thereon.

32. Restriction on Travelling Backwards—No driver of a motor vehicle shall cause the vehicle to travel backwards without first satisfying himself that he will not thereby cause danger or undue inconvenience to any person or in any circumstances, same in the case of a road roller, for any greater distance or period of time than may be reasonably necessary in order to turn the vehicle round.

33. Production of Documents—(i) A person driving a vehicle, shall always carry with him his driving licence; certificate of registration, certificate of taxation and certificate of insurance of the vehicle and in case of transport vehicle the permit and Fitness Certificate, also.

(ii) Shall on demand by Police Officer or an officer of the Motor vehicles department in uniform, produce the documents.

34. Every driver must be cognizant of the provisions of Sec. 71, 72, 77, 79, 81, 83 and 87 of Motor Vehicles Act.

FORM OF LEARNER'S LICENCE**FORM L. Lr.**

(Please see sub-section 3 of Section 6)
Valid throughout India

No.....

Dated

1. Name
2. Wife/Son/Daughter of
3. Date of birth
4. Blood group and RH factor
5. Address

is licensed to drive as a learner subject to the provisions of
Section 6 and subject to rules made by the State Government
in this behalf, a motor vehicle of the following description :

This licence is valid from.....to.....

Space for photograph :
(Five centimeters by six
and a quarter centimeters)



Space for specimen signature or thumb impression
of the applicant.

Signature and seal of the Licensing Authority

Signature and seal of the
Licensing Authority

No.....

Date

This license is hereby renewed from.....to.....

Signature and seal of the Licensing Authority.

FORM OF APPLICATION FOR LEARNER'S LICENCE**FORM L. Lr. A.**

(Please see sub sections (1) of Section 5)

1. APPLICATION

To

THE LICENSING AUTHORITY,

I hereby apply for a licence authorizing me to drive as a learner vehicle of the following descriptions :—

- * Motor cycle without gear
- * Motor cycle with gear
- * Light Motor Vehicle
- * Invalid carriage
- * Medium passenger Motor vehicle
- * Medium Goods vehicle
- * Heavy passenger motor vehicle
- * Heavy goods vehicle
- * Motor vehicles of a specified description

* Strike out whichever is inapplicable. Add other description if necessary.

II. PARTICULARS TO BE FURNISHED BY APPLICANT

1. Full name
2. Wife/Son/Daughter of
3. Permanent address
(Proof to be enclosed)
4. Temporary address
5. Date of birth
(Proof of age to be enclosed)
6. Particulars of any licence previously held by applicant.
7. Particulars of any learner's license previously held by applicant in respect of the description of vehicle to which the applicant applies :
8. I enclose 3 copies of my recent photographs (photographs to be of the size five centimeters by six and quarter centimeters), and Medical Fitness Certificate.
9. *I enclose the written consent of the parent/guardian.

Date

Signature or thumb-impression of applicant

Duplicate signature or thumb-impression of applicant

(1)

(2)

*Applicable to minor applying for license to drive as a Learner, a Moped. In the event of no parent or guardian a written consent from a responsible person shall be enclosed.

FORM A

(See sub section (1) of Section B)

(Form of Application for license to drive a Motor Vehicle)

I. APPLICATION

I apply for a license to enable me to drive the following class (classes) of motor vehicle :

Motor cycle without gear

Motor cycle with gear

Invalid carriage

~~Light motor vehicle~~

Road roller

A vehicle of a special type of the following description.

(Strike out which ever is not applicable)

I enclose three copies of a recent photograph (size five centimeter by six and quarter centimeter) driving certificate, Medical fitness certificate and L.Lr.

II**PARTICULARS TO BE FURNISHED BY THE APPLICANT**

1. Name
2. Wife/Son/Daughter of
3. Permanent address
(Evidence to be produced in case of any change in the address).
4. Temporary address
5. Blood group and RH Factor
6. Date of birth
7. Have you previously held licence ? If so give particulars of all licence held.
8. Has any licence held by you been endorsed ? if so, give particulars and the date of each endorsement.
9. Have you been disqualified for obtaining a licence to drive ? if so, for what reason ?
10. Have you been subjected to driving test as to your fitness or ability to drive a vehicle in respect of which a licence to drive is applied for ? if so, give date, testing authority and result of test.

1.

Signature or thumb impression of applicant

CERTIFICATE OF TEST OF ABILITY TO DRIVE

The applicant has passed/failed in the test prescribed under sub-section (3) of section (8). The test was conducted on (here enter description of the vehicle) bearing registration Mark on (date).

Date

Signature of Testing Authority
Name and Designation :

Duplicate signature or
Thumb impression of the
applicant.

1.

2.

FORM AA

(Please see sub-section 3 of Section 11)

Form of application for the addition of a new class of vehicle to a driving licence :-

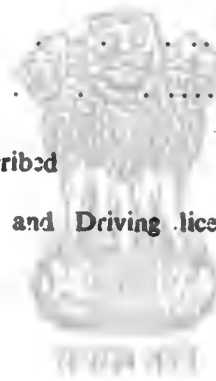
1. Name
2. Wife/Son/Daughter of
3. Permanent address

Hereby apply for the addition of the following class/classes of motor vehicle to my driving licence, attached :

- Motor cycle without gear
- Motor cycle with gear
- Invalid carriage
- Light Motor Vehicle
- Medium goods vehicle
- Medium passenger Motor Vehicle
- Heavy goods vehicle
- Heavy passenger Motor Vehicle
- Road Roller

A vehicle of a special type hereunder described

I enclose the LLR Driving certificate and Driving licence.

Signature or thumb impression
of the applicant

CERTIFICATE OF TEST OF ABILITY TO DRIVE

The applicant has passed/failed in the test specified in sub section (3) of section (8). The test was conducted on.....(class of vehicle) bearing Registration No.....on(date).

.....

Signature of testing authority

Date :.....

Name and Designation of the
Testing Authority

FORM B

(Please see subsection 1 of Section 13)

FORM OF APPLICATION FOR THE RENEWAL OF DRIVING LICENCE

I apply for the renewal of my driving licence the particulars of which are as follows :—

- (a) Number
- (b) Date of issue
- (c) Date of expiry
- (d) Licensing Authority by which the licence was originally issued.
- (e) Licensing Authority by which the licence was last renewed
- (f) Renewal number and date

II

Particulars to be furnished by the applicant.

1. Name
2. Wife/Son/Daughter of
3. Present address
If this address is not entered on the licence, I wish/I do not wish that it should be entered. (The request for change of address should be accompanied with proof)
4. If the licence is not renewed within thirty days of the date of expiry, full reasons for the delay.
5. I enclose the medical fitness certificate referred to under sub-section (5) of Section (5)
6. I enclose three copies of my recent photograph (size five by six and quarter cm).
7. I enclose my driving licence.

Duplicate signature or
Thumb impression of the applicant

Signature or Thumb impression
of the applicant

FORM C

(Please see sub section 5 of Section 5)

Form of medical fitness certificate in respect of an applicant for a licence to drive a motor vehicle.

(To be filled in by an authorised medical officer in the panel approved by Transport Department under sub section 4 of Section 5).

1. Name of the applicant
2. Wife/Son/Daughter of
3. Permanent address
4. Temporary address
5. Date of birth
6. Identification marks :
 (1)
 (2)
7. Is the applicant to the best of your judgement subject to epilepsy, vertigo, or any mental ailment likely to affect his efficiency.
8. Does the applicant suffer from any heart or lung disorder which might interfere with the performance of his duties as a driver.
9. Is there any defect of vision ? If so has it been corrected by suitable spectacle ?
10. Can't the applicant readily distinguish the pigmentary colours red and green
11. Does the applicant suffer from a degree of deafness which would prevent his hearing the ordinary sound signals
12. Does the applicant suffer from night blindness.
13. Has the applicant any deformity or loss of members ? If so give detailed description of the deformity.
14. Do you consider that the above deformity would interfere with the efficient performance of duties as a driver ? If not, give your reasons in details.
15. Does he show any evidence of being addicted to the excessive use of alcohol, tobacco or drugs
16. Does he suffer from attacks of loss of consciousness from any cause.
17. Is he able to distinguish with each eye at a distance of 25 meters in goods day light a motor car number plate
18. Is he suffering from any defect in movement control or or muscular power of either arm or limb.
19. What is height of the applicant ? Do you consider that his height will be disadvantageous for him to have a clear vision of the road while driving.
20. Is he a lunatic ?
21. Is he suffering from leprosy ?
22. Does he suffer from any other disease or disability likely to cause his driving a motor vehicle a source of danger to the public
23. Is he in your opinion generally fit as regards (a) bodily health and (b) eye sight and (c) Mental ability
24. Blood group of the applicant
25. Rh Factor of the Applicant

I certify that to the best of my knowledge and belief the applicant.....is the person herein above described that the attached photograph is a reasonably correct likeness. I also certify that while examining the candidate I have directed special attention to the distant vision and hearing ability the condition of the arms, legs hands and joints of both extremities of the candidate and he is medically fit to hold a driving licence.

space for photograph

***Seal and signature of the Medical Officer.**

Signature
Name and designation of the Medical Officer

Seal

Signature of the candidate

***The Medical Officer shall affix his signature over the photograph in such a manner that part of his signature is on the photograph and part on the certificate.**



(To be printed in Book form of the size six centimeters by seven centimeters).

FORM D DRIVING LICENCE

(See sub-section (5) of Section 8)

Number..... Date.....

Name

Wife/Son/Daughter of

Temporary address

Permanent address

Date of birth

Blood group/RH factor
Is licence to drive throughout India vehicles
of the following description.

Motor cycle without gear

Motor cycle with gear

Invalid carriage

Light Motor Vehicle

Medium goods vehicle

Medium Passenger Motor Vehicle

Heavy goods vehicle

Heavy Passenger Motor Vehicle

Road Roller

A motor vehicle hereunder described.

The licence is valid from.....to.....

Name and designation of the
authority who conducted the
driving test.

Signature and designation
of the Licensing Authority

Name of the Licence holder

Wife/Son/Daughter of

Photograph of the size five centimeter by six and quarter
centimeter

Name to be written across the photograph

Specimen signature of the holder
of the Licence

Signature and designation of the
Licensing Authority

AUTHORISATION TO DRIVE TRANSPORT VEHICLE

Number.....

Date.....

So long as this licence is valid and is renewed from time to time the holder is authorised to drive transport vehicle with effect from.....

Signature and designation of the
Licensing Authority.

Name and designation of
the authority who conducted
the driving test.

Date.....

SPACE FOR CHANGE OF ADDRESS**SPACE FOR RENEWAL**

Number.....

Date.....

The licence is hereby renewed from.....to.....

Date.....

Signature and designation of
Licensing Authority.

Space for addition of other classes vehicles.

Number.....

Date.....

Also authorised to drive vehicles of the following
description.

Name and designation of the
Authority who conducted the
Driving Test.

Date.....

Signature and designation of
Licensing Authority.

Space for Endorsements such as suspension, conviction, fine, or other punishments.

FORM E

[See Section 24(1)]

1. Full name of person to be registered as registered owner.....
Wife/Son/Daughter of
2. Age of the person to be registered as Registered owner
(Proof of age to be produced)
3. Permanent address of the person to be registered as re-
gistered owner (Evidence to be produced)
4. Temporary address of the person to be registered as
registered owner
5. Name and Address of the Dealer or manufacturer from
whom the vehicle was purchased
- (Sale certificate and certificate of road worthiness issued
by the manufacturer to be enclosed).

If ex-army vehicle, enclose proof. If locally manufactured
trailer/semi-trailer enclose the approval of design
by the State Transport Authority and note the pro-
ceedings number and date of approval.

6. Class of vehicle
- (If motor cycle, whether without gear)
7. The motor vehicle is
- (a) a new vehicle
- (b) Ex-Army vehicle
8. Type of body
9. Maker's name
10. Year of manufacture
11. Number of cylinders
12. Horse Power
13. Cubic capacity
14. Maker's classification or if not known, wheel-base
15. Chassis number
16. Engine number
17. Fuel used in the engine
18. Seating capacity (including driver)
19. Unladen weight
20. Particulars of previous registration and registered num-
ber (if any)

I hereby declare that the vehicle has not been registered in any State in India.

Additional particulars to be completed only in the case of transport vehicles other than motor-cab.

21. Colour or colours of body, wings and front end
22. Number, description and size of tyres
- (a) Front axle
- (b) Rear axle
- (c) any other axle

23. Maximum laden weight :--

- (a) as certified by the manufacturer kgms.
 (b) to be registered kgms.

24. Maximum axle weight to be furnished in the case of heavy goods vehicle and heavy passenger motor vehicles only

- (a) Front axle kgms.
 (b) Rear axle kgms.
 (c) Any other axle kgms.

The above particulars are to be filled in for a rigid frame motor vehicle of two or more axles for an articulated vehicle of three or more axles, or, to the extent applicable, for a trailer. Where a second semi-trailer or additional semi-trailers are to be registered with an articulated motor vehicles, the following particulars are to be furnished for each such semi-trailer.

25. Type of body
 26. Unladen weight
 27. Number, description and size of tyres on each axle
 28. Maximum axle weight in respect of each axle to be furnished in the case of heavy passenger motor vehicles and heavy goods vehicles only

Date.....

Specimen signature of the person to be registered as registered owner.

(1)

(2)



Signature of the person to be registered as Registered Owner.

Note :—The motor vehicle above described is :—

- (i) subject to hire purchase agreement/lease agreement with
 (ii) subject to hypothecation in favour of
 (iii) not held under hire purchase agreement, or lease agreement or subject to hypothecation.

(Strike out whatever is not applicable—If the vehicle is subject to hire purchase agreement or hypothecation signature of the Financier to be obtained).

Signature of the Financier

Signature of the Owner:

FORM F

[See Section 24 (5)]

Form of Application for renewal of certificate of registration of a motor vehicle, other than a transport vehicle.

I, Shri/Shrimati/Kumari.....hereby apply for the renewal of the certificate of registration, which is attached, and particulars of which are as follows :—

- (a) Registered number
- (b) Date of issue
- (c) Registering authority by which the certificate was issued/last renewed

My present address is

.....If this address is not entered on the Licence, I do/ do not wish that it should be so entered.

The renewal of the certificate has not been refused by any registering authority :—

1. Class of vehicle.
2. The motor vehicle is
 - (a) a new vehicle.
 - (b) Ex-Army vehicle.
3. Type of body.
4. Maker's name.
5. Year of manufacture.
6. Number of cylinders.
7. Cubic capacity
8. Maker's classification.
9. Chassis number.
10. Engine number.
11. Seating capacity (including driver).
12. Unladen weight.



Dated.....

Signature of the Applicant.

Note :—the motor vehicle above described is :—

- (i) subject to hire purchase agreement with
- (ii) subject to lease agreement with

(iii) subject to hypothecation in favour of

(iv) not held under hire-purchase agreement or subject to any mortgage.

(Strike out whatever is not applicable, and if the motor vehicle is subject to hire-purchase agreement or hypothecation, obtain the signature of the hire-purchase company or the mortgage, as the case may be).

Signature of the person to be
registered as registered owner.

Hire-purchase Company.

Signature of Mortgagee.



Specimen signature of the Owner.

(1)

(2)

FORM G
[See Section 24(3)]

Form of Certificate of Registration

Registered number

Previous registration mark, if any

Brief description of vehicle
(e.g. Fiat Car, Ambassador Car, Bus, Lorry, Trailer
Motor cycle without gear, Motor cycle with side car,
etc.).

Name of Registered Owner

Wife/Son/Daughter of

Full address
.
.
.

Date of registration

Signature of registering authority.

Specimen signature of
the registered owner.

DETAILED DESCRIPTION

1. The Motor vehicle is
(a) a new vehicle
(b) Ex-Army vehicle
2. Maker's name
3. Type of body
4. Year of manufacture
5. Number of cylinders
6. Chassis number
7. Engine number
8. Fuel used in the engine
9. Horse power
10. Cubic Capacity
11. Maker's classification or, if not known wheel-base
12. Seating capacity (including driver)
13. Unladen weight

Additional particulars in the case of all transport vehicles other than motor cabs :—

14. Colour or colours of body wings and front end
15. Maximum laden weight :—
 - (a) as certified by the manufacturer kgms.
 - (b) as registered kgms.
16. Number, description and size of tyres :—
 - (a) front axle
 - (b) rear axle.
 - (c) any other axle.
17. Registered axle weight in the case of heavy goods vehicles or heavy passenger motor vehicles, only.
 - (a) front axle kgms.
 - (b) rear axle kgms.
 - (c) any other axle kgms.

additional particulars of alternative or additional semi-trailer or semi-trailers registered with an articulated vehicle :—

18. Type of body
19. Unladen weight
20. Number, description and size of tyres on each axle.
21. Registered axle weight in respect of each axle in the case of heavy goods vehicles or heavy motor vehicles only

Specimen signature of the registered owner.

This certificate is valid from to

Dated

Signature of registering authority.

the day of 19

Note :—The motor vehicle above described is :—

- (i) subject to a hire purchase agreement/
Lease agreement with
- (ii) subject to a hypothecation in favour of
- (iii) is not held under hire purchase agreement, Lease Agreement or subject to Hypothecation.

Dated

Signature of Registering Authority.

This certificate is hereby renewed from to

Signature of Registering Authority.

NOTE :—This shall be in the Form of a Book leaving sufficient space for recording transfer of ownership, change of address, Hire purchase endorsements, cancellation of Hire Purchase entries, alteration, suspension and cancellation of registration, etc.

FORM H

Certificate of fitness applicable in the case of transport vehicles only

(Sub-Section (1) of Sec 38)

Vehicle number _____ is certified as complying with the provisions of Chapter V of Motor Vehicles Act, 1986, and the rules made thereunder.

The certificate is valid from _____ to _____

Dated :

Signature

Name and designation of
Inspecting Authority.

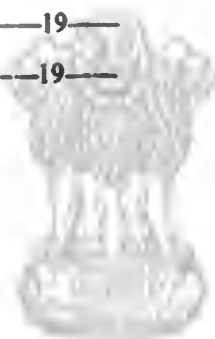
The certificate of fitness is hereby renewed—

From _____ to _____ 19 _____

From _____ to _____ 19 _____

From _____ to _____ 19 _____

From _____ to _____ 19 _____



Signature
Name and designation of
Inspecting Authority

SYLABUS FOR
'DRIVING TRAINING PROGRAMME
(Sub-section (I) of Section 7)
LIGHT VEHICLE TRAINING

1. Driving Theory I
2. Traffic Education I
3. Light vehicle Driving Practice.
1. DRIVING THEORY—I
1. Know your vehicle
2. Vehicle controls:
 - Foot controls Foot Brake-Accelator Clutch-Dipper
 - Hand controls Steering Wheel-Hand Brake-Horn-Light-Wipers-Ignition switch-Starter.
 - Other controls Rearview Mirror (Right and left side) Dials and Gauges— Wind screen.
3. Pre-Driving Checks Before sitting on Driver seat importance-After sitting on Drive seat importance.
4. Beginning to Drive :
 - Precautions just before moving
 - and moving on
 - Bitting point
 - Moving
 - Changing gear
 - Steering
 - Stopping.
5. Driving on the road :
 - Anticipation—Judgement Road positioning according to other road users.
6. Driving at the intersections M.S.M. and P.S.L. routines
zone of vision
7. Manoeuvres Merging and divergine Manoeuvres—Turning manoeuvres : Lefts
right about 3 point turn, 5 point turn, U turn overtaking at stationer
vehicle, moving Vehicle in left side and right side.
8. Reversing Locating reverse Gear sitting position—Speed control..Steering
in reverse gear-weaving the S—Bend-Common errors.
9. Parking Parallel—angular—perpendicular parking facing up hill—parking
facing down hill—common errors.
10. Driver responsibility on the road Driving behaviours—consideration for other road users-courtesy
competitiveness-over confidence, impatience and defensive driving.
2. TRAFFIC EDUCATION—I
1. Driving Regulations 10th Schedule of M.V. Act 1939
2. Hand signals 11th Schedule of M.V. Act 1939
3. Road Traffic signs 9th Schedule of M.V. Act 1939
4. Police signals
5. Introduction to Traffic signals
6. Introduction to Road Marking
7. Speed regulations on Highways and city Roads.

8. Parking objection places
9. Sections 81,82,83,84 and 85 of M.V. Act.
10. Test of Competence to Drive: . . . 3rd Schedule of M.V. Act—1939.

3. LIGHT VEHICLE DRIVING PRACTICE

1. Identification of vehicle Parts
2. Pre-driving checks
3. Steering practice
 - Push and Pull method.
4. Bitting Point
5. Moving and Gear changing
6. Stopping—
 - Normal stopping
 - Emergency stopping.
7. Developing Judgement and anticipation to drive on the road
8. Reversing
 - in straight
 - in 'S' Bends
9. Turning about and parking
10. Licencing.

VEHICLE MECHANISM AND REPAIRS

1. Layout of Vehicle
2. Function of Diesel and petrol Engines.
3. Fuel system
 - Fuel lines.
 - Fuel injection pump
 - Automiser
 - Air Lock
 - Oil Bleck
4. Cooling system
 - Purpose
 - Radiator
 - Water pump
 - Fan leaf
 - Radiator water Boiling
 - Rectification
5. Lubrication system
 - Purpose
 - Engine Lubrication
 - Chassis Lubrication
 - Oil grade Numbers
6. Transmission System
 - (a) Cluch
 - Function
 - Parts
 - Slip
 - Rising
 - Linkages
 - (b) Gear Box
 - Function
 - Purpose
 - Parts

(a)

- (c) Propeller shaft
 - Function
 - Yoke
- (d) Differential
 - Purpose
 - Function
- 7. Suspension system
 - Purpose
 - Springs
 - Sackles
 - Shock absorbers
- 8. Steering system
 - Purpose
 - Steering Geometry
 - Steering Box
 - Steering Linkages
- 9. Brake system
 - Purpose
 - Hydraulic Brake
 - Air assisted Hydraulic Brake
 - Air Brake
 - Brake Adjustment
- 10. Electrical system
 - Battery
 - Dynamo
 - Self Motor
 - Regulators
 - Lights
- 11. Tyres
 - Study of Tyres
 - Maintenance
 - Effect of defected tyres wheel alignment.
- 12. Dash Board Meters and their purposes.

HEAVY VEHICLE DRIVING

- 1. Driving Theory II
- 2. Traffic Education II
- 3. Public Relations
- 4. Heavy Vehicle Driving Practice.

1. DRIVING THEORY—II

- 1. Qualities of Good Driver

Patience—responsibility—self confidence—anticipation—concentration courtesy—Defensive Driving—knowledge of rules of the road—knowledge of vehicle controls, maintenance and simple mechanism.

- 2. Knowledge of Vehicle Controls

—Major Controls
—Minor Controls

- 3. Response of Controls

—Accelerator
—Brake
—Clutch
Steering

4. Pre-Driving Checks
5. Holding Steering Wheel
 - Push and Pull method practice
 - On the move.
 - while Gear changing
 - while turning
 - while sounding horn
 - while operating Dash Board Switches
 - while signalling
 - on emergency
6. Gear changing
 - Double de-clutching importance
 - and procedure.
 - Gear up procedure
 - Gear down procedure.
7. Beginning to Drive
 - I Gear
 - II Gear
 - III Gear
 - IV Gear
 - V Gear
 - Reverse Gear
 - Over Drive
8. M.S.M. and P.S.L. Routines
9. Manoeuvres
 - Passing
 - Merging
 - Diverging
 - Overtaking
 - Crossing
 - Turning
 - Cornering
 - Reversing
 - Parking
10. Stopping
 - Normal stopping
 - Emergency stopping
 - Use of engine brake
 - Use of exhaust brake
11. Stopping distance
 - Reaction Distance
 - Braking distance
12. Following distance
 - Meaning
 - Distance Method
 - Car length Method
 - 2 Seconds time rule Method.
13. I.P.D.E. Principle
14. Defensive Driving Techniques
 - Judgement
 - Anticipation
 - Escape route
15. Night Driving
 - Location of Head light switch
 - Procedure
 - Usages of dipper switch

16. Hill Driving

Starting, in Hill using the Parking brake method
Slipping the clutch method
Driving the Up-Hill
Driving in Down-Hill

17. Emergency Manoeuvres

Prevention better than cure.
skid, Horn struck
Fire , wheel came out.
Brake failure
Stub axle broken
Front tyre burst
Steering wobbling
Steering linkages out
Accelerator pedal struck
Clutch road cut
under special circumstances like other vehicles failure and coming towards ours
Brake failure during down hill
sudden obstruction in front of us.

18. Driving under Special conditions

in wet weather
in dawn and dusk
in dense traffic

19. Towing (Trailer Driving)

Procedure
on tow board
Speed of towing

20. Fuel saving Methods

21. Reports-Discussions

2. TRAFFIC EDUCATION—II

1. Know your road
 - Functional classification
 - Design speeds
 - Road Geometeries
 - Surface types and characteristics
 - Slopes and supper elevation
2. Sight Distance
 - At Bends
 - At Intersections
3. Road Junctions Principles and Types
 - T—Junction
 - Y—Junction
 - 4 Arum Junction
 - Staggered Junction
 - Controlled Junctions
 - Uncontrolled Junctions
4. Traffic Islands
 - Types of Roundhana
 - Medium
 - Channelisers
5. Bye-pass, Subway, over Bride and Flyovers
 - Purpose,
 - Driving procedures
6. Bus stop, Bus terminus, Bus stand and Bus terminus
 - Ingress
 - Engress
 - Method

- white line continuous and brake yellow line.
7. Road Markings Lane Marking
Zebra Crossing
Pedestrian Crossing
Stop Line
Parking markings.
 8. Lane selection and Lane discipline
 9. Automatic Light signals
 10. Road user characteristics Pedestrian, drunked, children,
Youth, aged, ladies with children
Slow moving vehicles.
Mopeds and motor cycles.
Autos, tempos, vans.
Buses and Trucks
VIP, Ambulance, Fire engine.
Animals.
 11. Accident Types of Accidents.
Causes of Accidents.
Preventing methods.
Driver duties and responsibilities on the occurrence of accidents.
 12. Important Provisions in Motor Vehicles Act, 1939 and Tamil Nadu Traffic Rules 1938
Certain Definition.
Driver licensing and Renewing.
Traffic offences and penalties stipulated under the V—Schedule
Relevant Extracts of Petroleum Act, 1934.
Madras City Police Act, 1888.
Indian Penal Code, Tamil Nadu Public Health Act, 1939.
Tamil Nadu Road Marking Rules.

3. PUBLIC RELATIONS FOR DRIVERS

1. History and growth of Public Relations

Definition—Nature and scope—Need for Public Relations—Relations as a Management tool—Development of public Relations in India—Distinction between Public Relations Advertising. Publicity and propaganda—Ethics-Methods of Public Relations.

2. Telephone

The Telephone manners—Usage of Telephone PBX and PABX systems and Inter com.—Booking of phonogram—STD Calls—Use of Telex System—Traffic and Cares for Installation—Maintenance and Usage of various systems.

3. Hospitability and Conference

Duties of receptionist—Save tips on hospitality organising Conference and parties—Catering services within Bus Station and on Bus—Types of Hotel Accommodation and foods served.

4. Tourism

Introduction to Tourism—Knowledge about historical background of the regions—Tourist Centres and monument of the region—Duties of Tourist Guide—Knowledge about roads, Tourists facilities and Transport facilities of the regions.

5. Health and Hygiene Aspects

Sanitation and Hygiene of Bus Stations—Restaurants, Toilets—The Relevant acts and rules.

6. Fire Hazards

Fire fighting and prevention Methods on Vehicles and at Bus stations.

7. Nursing

The needy and child care during the journey.

8. Public Relations

In a Transport Undertaking.

4. HEAVY VEHICLE DRIVING PRACTICE

1. Introduction to various Dial gauges and controls.
2. Pre-driving checks
3. Beginning to Drive Bitting point, moving, changing gear including Double declutch, steering, stopping Hand signals.
4. Rural Road Driving Application of IPDE —Principle.
5. Development of Judgement Passing, overtaking, Mergine, Diverging, M.S.M. and P.S.L. Routine method of practice, Defensive Driving technique, proper following.
6. Development of Anticipation Turning, meeting, entering and emerging in Junctions, Lane Selection and Lane Discipline, Intersection Observation.
7. Developing skill to Drive in Crowded streets.
8. Night Driving.
9. Cross country Practice and Hill Driving.
10. Internal trade test.
11. Reversing and parking practice.
12. Licencing.

5. VEHICLE MAINTENANCE

1. Factors affecting the Vehicle parts due to bad and negligent driving.
2. General day-to-day Maintenance and periodical Maintenance.
3. Battery Maintenance.
4. Tyre Maintenance and tube vulcanising.
5. Engine time up.
6. Checking wheel alignment.
7. Brake adjustment
8. Accelerator, Brake, Clutch-pedal Adjustment.
9. Fan Belt Adjustments
10. Observation of Dash Board Meters.
11. Lubrication.
12. Removal of Air lock and Oil Block.

5. FIRST AID

1. Introduction to First Aid.
2. Out line of First Aid.
3. Structure and Functions of the body.
4. Dressings and Bandages.
5. The circulation of the Blood.
6. Wounds and Haemorrhage.

7. Haemorrhage from Special regions.
8. Shock.
9. Respiration.
10. Injuries to Bones.
11. Burning Scalds.
12. Unconsciousness (Intersibility).
13. Poisons.
14. Miscellaneous Conditions.

Explanation

P.S.L. means Position, Speed and Look.
M.S.M. means Mirror, Signal and Manoeuvre.
I.P.D.E. means Identification, Prediction, Decision and Execution.



CHECK LIST FOR THE GUIDANCE OF THE AUTHORITY CONDUCTING THE TEST FOR COMPETENCE DRIVE [Sub. Sec (3) of Sec. 8]

1. Records to be verified before proceeding to conduct the driving test :
 - (a) Validity of Learner's Licence.
 - (b) Driving certificate issued by the Driver Training School—Assessment of the candidate by the School.
 - (c) Medical Certificate—Fitness of the candidate to hold the licence applied for.
2. Test of Competence to Drive :

Driving Test

The candidate shall satisfy the person conducting the test that he is able to—

1. Read a Motor Car Number plate at a distance of 25 meters in good day light (with the aid of glasses if worn).
2. Show courtesy and consideration for the safety and convenience of other road users such as pedestrians, drivers of other vehicles, cyclists, etc.
3. Take suitable precautions before starting the engine.
4. Move away safely and smoothly straight ahead at an angle, while at the same time engaging all gears until the top gear is reached. To change down to the lower gears quickly from the top gear when the traffic conditions warrant such change.
5. Turn right and left corners correctly and make proper use of rear view mirror before signalling.
6. Overtake, allow to be overtaken, meet or cover the path, other vehicles safely and take an appropriate course of the road with proper caution giving appropriate signals.
7. To give appropriate traffic signals at appropriate time, clearly unmistakably by hand or by mechanical, electrical indicators fitted to the vehicle.
8. Stop the vehicle in emergency and normally and in the latter case bring it to rest at an appropriate course of the road safely, giving appropriate signals.
9. To reverse the vehicle into a limited opening either to the right or left under control and with reasonable accuracy.
10. To cause the vehicle to face in the opposite direction by means of forward and reverse gears.
11. To take correct and prompt action on the signals given by traffic signs, traffic lights, traffic controllers, policemen and take appropriate action on signs given by other road users.
12. To act correctly at pedestrian crossings.
13. Keep well to the left in normal driving.
14. To regulate speed to suit varying road and traffic conditions.
15. Demonstrate general control of the vehicle by confident steering and smooth gear changing and braking as and when necessary.
16. To change quickly to lower gears when driving down hill.
17. To make proper use of the rear view mirror before signalling, beginning manoeuvre, moving away, altering the course to overtake, turning right or stopping.
18. Change the lanes with proper signals and with the due care.
19. Use proper side when driving straight, turning right, turning left and at junction of the road.

20. Make proper use of accelerator, clutch, gears, brakes (hand & foot) steering, horn.
21. To anticipate the actions of pedestrians, drivers of other vehicles, cyclists.
22. To take precaution at cross roads and on road junctions with regard to :
 - (a) adjustment of speed on approach,
 - (b) proper use of mirror, signals, brakes and/or gears on approach,
 - (c) correct positioning of the vehicle before and after turning to the right and left,
 - (d) Avoidance of cutting right hand corners,
 - (e) looking right, left and right again before crossing or emerging.
23. To stop and re-start the vehicle on a steep upward incline making proper use of the hand brake or of the throttle and the foot brake without any rolling back.
24. Concentrate in driving without his attention being distracted and to demonstrate the presence of mind.
25. The candidate shall satisfy the person conducting the test that he is :
 - (a) conversant with the general traffic rules and regulations relating to the use of lights, speeding, parking, stopping the vehicle in an emergency, accidents, production of documents, right of way, controlled and uncontrolled pedestrian crossings, meaning of light signals (amber, red and green) overtaking, taking a 'U' turn, silence zones, one-way traffic, driving on channelised roads and other relevant matters;
 - (b) aware of the meaning of the traffic signs specified in the Third schedule;
 - (c) conversant with all the provisions of the "Rules of the Road" and of the following section under the Motor Vehicle Act, 1986, Section 71, 73, 77, 77-B, 79, 81, 86, 87.



CHECK LIST FOR INSPECTION OF TRANSPORT VEHICLES FOR ISSUE OR RENEWAL OF FITNESS CERTIFICATE

[SEE SUB SECTION (I) OF SECTION 38]

1. Details of items to be verified :

- (a) Chassis number
- (b) Engine number
- (c) Wheel Base
- (d) Size and number of tyres fitted as per registration certificate, verification of payment of taxes and validity of insurance certificate and permit

INSPECTION DETAILS

2. Condition of engine :

- (a) Does it start easily ?
- (b) Has got good pulling power compression?
- (c) Is there any excessive smoke? If so it should be corrected to the permissible limit
- (d) Are there any bearing or other distinct knocks?
- (e) Is the carburettor or the fuel injection equipment in sound working condition?
- (f) Is the silencer fitted as prescribed without leakage?
- (g) Is there any leakage of oil or fuel?
- (h) Is the generator charging correctly?
- (i) Is the radiator in good working order without leakage of water?
- (j) Is the battery in good order and fitted securely?
- (k) Check up noise in the tapped and main Bearings
- (l) Check up Dynamo and Air cleaner
- (m) If the silencer produces noise more than what is normal it should be corrected or replaced.

3. Transmission :

(i) Condition of clutch :

- (a) Does it make any noise either in engaged or disengaged position ?
- (b) Does it slip?
- (c) Has the clutch pedal got correct free play?

(ii) Condition of gear box :

- (a) Are the gears easily engageable?
- (b) Is there undue noise in any of the gears?
- (c) Does any of the gears slip while engaged?

(iii) Propeller Shaft :

- (a) Whether all the universal joints are in good condition without wear?
- (b) Is the splined coupling free from wear?
- (c) Is the centre bearing of the propeller shaft worn out?
- (d) Is there any whipping of the propeller shaft?
- (e) Check the propeller shaft noise while driving
- (f) Check the noise in the drive shaft

(iv) Differential :**(a) Is there any humming noise in the differential?****(b) Is there any oil leakage?****4. Rear Axle :****Are the axles fitted properly with all the bolts and nuts intact ?****5. Front Axle :****(a) Jack up and see for wear in the King pins bushes and other linkages****(b) Check up King Pin play and wheel alignment****(c) FRONT SUSPENSION : Check up whether the system is in perfect order****(d) Centre bolt to be checked****6. Steering Mechanism :****(a) Whether the steering is having excessive back lash?****(b) Are the tie rod ends and other joints of steering mechanism free from wear?****7. Power Steering Mechanism :****(a) Is it properly fitted and whether they are in good condition?****(b) Whether the steering mechanism is properly functioning or not?****8. Springs :****(a) Are the springs of proper chamber?****(b) Are the shackle pins and bushes in sound condition?****(c) Are CLAMPS and 'U' Bolts properly secured?****(d) Check up for any crack or breakage in the spring leaf****9. Braking system :****(a) Whether there is any leakage of fluid in the braking system?****(b) Whether the brake pedal got correct free play and the same is spongy or hard?****(c) Is there even action on all the 4 wheels?****(d) Whether the hand brake is in working order and efficient?****(e) Wheel cylinder unit and master cylinder unit should be inspected****10. Mechanical :****i.e the linkages and cables in order and free from wear?****11. Vacuum :****(a) Whether the vacuum guage is in order and showing a vacuum of 18 to 20 inches or 45 to 50 cms.****(b) Whether the hose connections are in order and properly secured?****12. Fuel System :****(a) To check up Fuel Tank for leakage****(b) To check up fuel pipes and fuel pump for leakage****(c) Fuel pump to be inspected to see for proper functioning**

13. Air Brake :

- (a) Is the air pressure gauge in order and showing the air pressure of 5.3 kgs. per sq. cm. or 75 lbs/ square inch?
- (b) Are the hose fittings in order and properly secured?
- (c) Whether the main hose leading from the compressor to the a/a tank is in order and free from oil?
- (d) To check up to the unloader valve for its proper functioning

14. Tyres :

- (a) Whether the tyres are in good condition and are of proper size?
- (b) Whether the tread has separated from the casing in the case of retreaded tyres?

15. Body :

- (a) Whether the body and under chassis painted well?
- (b) Is the body free from excessive rattling?
- (c) Are the doors provided with locking system?
- (d) Is the roof properly covered to prevent leakage of water?
- (e) Are the side curtains provided in the case of buses with locking buttons or straps?
- (f) Are the window glasses and wind screen glasses without breakages and cracks and whether they are of safety type
- (g) Are the window shutters, if fitted in efficient operating condition free from undue rattling?
- (i) Are the registration number plates, letters and numerals painted and exhibited as prescribed?
- (j) Floor, Doors, hinges and lock should be inspected
- (k) CHASSIS FRAME : Check up condition of the chassis frame, cross members and side members for breakages and weakness

16. Electrical Fitting :

- (a) Whether all the lights are functioning properly?
- (b) Are the following lights fitted and in order :
 - (a) Head lights
 - (b) Panel Lights
 - (c) Park Lights
 - (d) Roof lights
 - (e) Indicator lights
 - (f) Destination Board for stage carriages
 - (g) A white light on the right top of the cabin and a red light on the rear side of body and cat's eye reflectors and Internal lighting
- (c) Are the head lights properly focussed and the dipping arrangements in order?
- (d) Whether the head lights have been painted as prescribed?
- (e) Is the rear number plate illuminated?
- (f) Are there proper switches for the lamps and dippers?
- (g) Are there any unauthorised lights fitted in the vehicle other than mentioned above? And if so, they should be got removed before issuing fitness certificate

- (h) Does the sparking take place correctly and the plugs in sound condition in case of petrol engine?
- (i) Head lamps to be checked up for its proper height from ground level
- (j) Are Reflectors fitted in proper places and are they of good quality?
- (k) Whether Speedometer Fuel gauge, Oil pressure guage and Temperature gauge, Air Pressure guage are in working condition?
- (l) Whether the horns used are in accordance with the rules in force.
- (m) Are electrical connections and wires properly secured and insulated?

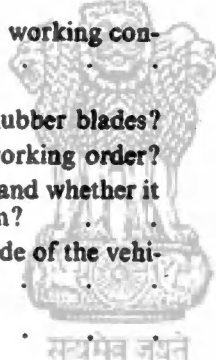
17. Upholstry :

- (a) Seats upholstry should be checked up for good maintenance
- (b) Check to be done for comfortable pessenger seats, gangway, grab rail and other passenger amenities in the case of passenger vehicles

18. Any multitoned horn fitted to the vehicles should also be got removed?

19. Accessories :

- (a) Is the windscreen wiper with blade in working condition?
- (b) What is the condition of Arm and Rubber blades?
- (c) Are the panel guage and meters in working order?
- (d) Is it provided with a rear view mirror and whether it is securely fitted to have a clear vision?
- (e) Are the particulars on the left hand side of the vehicle painted as prescribed?



20. Is the vehicle painted properly?

21. General :

- (a) Whether any material alternations have been carried out in the vehicle and if so, whether permission for such alternat'ion has been obtained?
- (b) Any visual or other defects should be got rectified.
- (c) General cleanliness of the vehicle to be observed.

The Inspecting Authority should not only be satisfied with condition enumerated above but should also be satisfied about the general mechanical condition of the vehicle after subjecting the vehicle to a rigorous road test All aspects relating to road safety should be given utmost priority.

**FORM OF ACCIDENT INSPECTION REPORT
(SECTION—109)**

1. Name of the Police Station
2. CR No./T.A.R. No./S.D.E. No.
3. Date, time and place of the accident
4. Name and full address of the injured/deceased
5. Name of the Hospital to which he/she was removed
6. Registration Number of vehicle and the type of the vehicle
7. Driving Licence particulars :
 - (a) Name & Address of the driver
 - (b) Driving licence number and date of expiry, Class of vehicle authorised to drive
 - (c) Address of the issuing authority
 - (d) Badge No. in case of public service vehicle
8. Name & Address of the owner of the vehicle as it stands on the date of the accident
9. Name and address of the Insurance Co. with whom the vehicle was insured and the Divisional Office of the said Insurance Company
10. Number of Insurance Policy/Insurance Certificate and the date of validity of the Insurance Policy/Insurance Certificate
11. Registration particulars of the vehicle (Class of vehicles):
 - (a) Registration No.
 - (b) Engine No.
 - (c) Chassis No.
12. Route Permit Particulars
13. Action taken, if any, and the result thereof



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